







A COMPILATION OF LAWS

APPLICABLE TO AND AFFECTING THE

BOARD OF PRESIDENT ^{AND} DIRECTORS

OF THE

ST. LOUIS PUBLIC SCHOOLS.

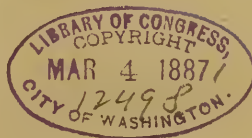
WITH REFERENCES TO JUDICIAL DECISIONS AND OPINIONS OF ATTORNEYS
OF THE BOARD, MADE UNDER THE DIRECTION OF

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Attorney of the Board.

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CONTENTS.

	PAGE.
I. CHARTER OF THE BOARD OF PRESIDENT AND DIRECTORS OF THE ST. LOUIS PUBLIC SCHOOLS	5
II. ACTS OF THE MISSOURI LEGISLATURE, WHICH IN TERMS AFFECT THE ST. LOUIS PUBLIC SCHOOLS	26
III. FROM THE REVISED STATUTES OF THE STATE OF MISSOURI OF 1879	69
IV. ACTS OF THE MISSOURI LEGISLATURE PASSED SUBSEQUENT TO THE REVISED STATUTES OF 1879	131
V. FROM THE CONSTITUTION OF THE STATE OF MISSOURI OF 1875	177
VI. ORDINANCE OF CONVENTION OF 1820	195
VII. FROM THE SCHEME FOR THE SEPARATION AND RE-ORGANIZA- TION OF THE CITY AND COUNTY OF ST. LOUIS	197
VIII. FROM THE CHARTER OF THE CITY OF ST. LOUIS	201
IX. FROM THE ORDINANCES OF THE CITY OF ST. LOUIS	218
X. ACTS OF CONGRESS	227

In making this compilation it has been the design to copy the laws literally as they appear in the original publications when the same could be obtained. This will account for the want of uniformity in style and the manifest errors appearing in their text. But as to the head-lines—they being no part of the enacted laws—discretion has been used. In all cases head-lines have been supplied when needed, and in some instances they have been changed to correspond more closely with the matter under them.

CHARTER

OF THE

BOARD OF PRESIDENT AND DIRECTORS

OF THE

ST. LOUIS PUBLIC SCHOOLS.

AN ACT to establish a corporation in the City of St. Louis, for the purpose of public education. [Laws Mo. 1824-35, p. 399.]

Be it enacted by the General Assembly of the State of Missouri, [as follows:]

1. **Board constituted**—All free white persons residing within the limits of the city of St. Louis, as the same now are, or hereafter may be established by law, are hereby constituted a body politic and corporate, by name and style of the board of president and directors of the “St. Louis Public Schools,” and by that name they and their successors shall be known in law, have perpetual succession, sue and be sued, implead and be impleaded, defend and be defended, in all courts of law and equity, and in all actions whatever; may purchase, receive and hold property, real and personal; and may lease, sell or dispose of the same, and may do all

other acts as natural persons; they shall have a common seal, and may break and alter the same at pleasure.

The School Board should deal equitably—"The Board of Public Schools is a public body, and ought to deal equitably with all men, whether under any legal obligation to do so or not." Atty's Opinion, I. Off. Proc. 267.

But it should not give away the interests entrusted to it—The Supreme Court of Missouri thus expresses itself respecting a proposed reduction of interest on a loan of school funds at the petition of the inhabitants of a township: "The welfare of the State is concerned in the education of her children. She has provided and is providing means for that purpose, not only for those now in existence, but for those who may come after them. The fund, as has been said, is a permanent one, and if every man, woman and child in a township should petition the county court to give it away, that which by law is entrusted to it, for the education of its children, it should without hesitation, reject their prayer." Scott, J., *Veal v. Chariton County Court*, 15 Mo. 412, 414.

A purchaser of school lands, cannot be relieved in equity against the payment of a bond given for the purchase money, on the ground that the sale was illegal (affirming *Brown v. Crawford County*, 8 Mo. 640). "The party was willing to embark, according to his own showing, in an illegal speculation, makes a venture, wins a prize and because it afterwards deteriorates in value, he asks a court of equity to relieve him from the consequences of his own folly." *Bogarth v. Caldwell County*, 9 Mo. 358. See also *Veal v. Chariton County Court*, 15 Mo. 412.

The School Board is an actual as distinguished from a quasi corporation—The Board of President and Directors of the St. Louis Public Schools is an actual, as distinguished from a *quasi* corporation, incorporated by a public act. Any one, who is a free white citizen residing in St. Louis, is by the terms of the charter of the Board, a member of the corporation and is thereby presumed to have notice of its rules. *McLellan v. Board, etc., St. Louis Public Schools*, 15 Mo. App. 362.

The Board is not a municipal corporation—The Board of President and Directors of the St. Louis Public Schools, school districts and corporations organized for the purpose of education only, are not municipal corporations in the sense of a law approved March 14, 1859 [Laws Mo. 1859, p. 448], and the acts amendatory thereof [Laws Mo. 1862-3, p. 158, and Laws Mo. 1871, p. 109], which declare that no person shall be eligible to the office of Justice of the County Court of St. Louis County, who at the time of his election shall hold any office under a municipal or railroad corporation created by the laws of the State of Missouri. "A municipal corporation is defined by Bouvier to be: 'A public corporation

created by government for political purposes, and having subordinate and local powers of legislation. An incorporation of persons, inhabitants of a particular place or connected with a particular district, enabling them to conduct its local civil government.' * * * The Board of President and Directors of the St. Louis Public Schools is not a corporation created for political purposes, nor is it created for the purpose of enabling the people of the district named, to conduct its local, civil government, and the mere fact that its limits of jurisdiction are the same as that of the city of St. Louis, makes no difference in that particular; it is just the same as if it had constituted a township or any other district described as a school district. * * * And although the particular district is separately organized and incorporated by the Legislature, it is no more a municipal corporation than is the Board of Directors of any other school district in the State." *Heller v. Stremmel*, 52 Mo. 309, 311.

"The School Board is a public corporation." See *State to use v. Tiedemann*, 69 Mo. 306, 307.

Of whom the corporation consists — The Board of President and Directors of the St. Louis Public Schools does not, as a corporation, consist of the Directors of said body, as some seem to suppose, but of "all (free white) persons residing within the limits of the city of St. Louis, as they now are or hereafter may be established by law." Atty's Opinion, III. Off. Proc. 67. See, also, Atty's Opinions to same effect, I. Off. Proc. 247 and 348.

See, also, Act of March 17, 1881 [Laws Mo. 1881, p. 207], fixing the number of Directors, and prescribing the qualifications of electors therefor on page 63 of this compilation.

Residents of St. Louis incompetent as jurors in suit wherein School Board is a party. — In a suit in which the Board of President and Directors of the St. Louis Public Schools was a party an objection was made to some of the jury who were residents and householders of the city of St. Louis, because they were members of the corporation (the School Board), and therefore interested. It was held that the objection was a valid one. *Eberle v. Board, etc., St. Louis Public Schools*, 11 Mo. 247.

"The special act of 1855 relating to jurors in St. Louis county [approved March 5, 1855, Laws Mo. 1855, p. 527], was properly disregarded by the court in directing a special venire to be summoned outside of the city limits. The inhabitants were not competent jurors," in a case where the St. Louis Public Schools was a party. *Fine v. St. Louis Public Schools*, 30 Mo. 166.

Non-resident children not allowed to attend St. Louis public schools — The School Board has no legal right to permit the attendance in the schools of the children of non-residents to the exclusion of those of residents. "The School Board is a public corporation, embodying by the terms of its charter, persons residing within the limits of the city of

St. Louis, and none other. For the support of the corporation, property and residents within the city alone are taxed. The duties of the Board are limited strictly to residents of the city and their children, and the powers of the Board are correlative to its duties only. It necessarily follows that the powers of the Board and its legal right to use means derived from taxation of inhabitants of the city for the education of the inhabitants of districts outside of the city, would be exceedingly questionable, even if it could be done without detriment to children of inhabitants of the city." Atty's Opinion, II. Off. Proc. 59.

2. Powers, in whom vested — The powers of the corporation hereby established shall be vested in a president and directors, who shall be free white males, at least twenty-one years of age, and have resided at least twelve months previously to their election in the said city, and who shall be a citizen of the United States, and have paid a city tax, and who shall be chosen and appointed, as hereinafter directed.

See Act amendatory hereof relating to qualifications of Directors on page 29 of this compilation.

Power and liability of individual directors — Teachers' incompetency a question of fact — In a personal action against local directors of a school sub-district for wrongfully dismissing a teacher, it was held that the question of the teacher's incompetency or the existence of other cause for his removal is for the jury to determine. In its opinion the court said: "The rule is firmly established, that officers, acting in a judicial or discretionary capacity, will not be liable unless guilty of either willfulness, fraud, malice or corruption and not according to their honest convictions of duty. (*Schoettgen v. Wilson*, 48 Mo. 253.) But where trustees, directors or commissioners do acts not within the scope of their authority, or are guilty of negligence in doing that which they are empowered to do, or are guilty of arbitrary, wanton or oppressive conduct they render themselves liable." *McCutchen v. Windsor*, 55 Mo. 149.

Where the president of a board of trustees in that character as trustee acknowledges a liability, on behalf of such trustees, by a promissory note, to pay a liability incurred for the building of a school house — such president is not personally liable. *Hodges v. Runyan*, 30 Mo. 491.

A member cannot alter a contract — A single member of a board of education cannot alter a contract already made by the Board, unless he is previously authorized, or his act is subsequently ratified by the Board duly assembled as such. State to use *v. Tiedemann*, 69 Mo. 515, citing *Barcus v. Hannibal*, etc., R. Co., 26 Mo. 102; *Chambers v. Board*, etc., of *Cameron*,

60 Mo. 370; *Johnson v. School District*, 67 Mo. 319. "The loose conversations between members of the Board and the contractor, after the formal execution of a written contract between the Board and the contractor, cannot be allowed to vary the written contract. It would be unsafe to both parties to allow such variations." *Chambers v. Board*, etc., of *Cameron*, 60 Mo. 370, 380.

A member cannot purchase supplies — Use of supplies thus purchased, not a ratification of contract of purchase — No action can be maintained against a school district upon an order drawn on the township treasurer by one or more of the directors of the district, for the price of maps, globes, etc., purchased by them for the use of the district without authority of the board; nor can an action be maintained against a district upon an order not signed by the clerk of the district. The fact that articles purchased for the use of the school by one or more of the directors without the authority of the board, having been used in the school, does not amount to a ratification of the purchase, or impose upon the district any obligation to pay for them. *Johnson v. School District*, 67 Mo. 319.

Appearance to suit may be entered without formal authority of Board — Employment of attorney — A school district may enter its voluntary appearance as defendant in an action without any order of the board made at a formal meeting and entered of record. If the appearance be entered by one member of the board with the knowledge and consent of the others, they cannot, after verdict object to the regularity of the proceedings. "Exigencies may arise, even in the concerns of a school board, which would compel the immediate employment of an attorney, when delay might prove greatly detrimental to the interests of the board." *Thompson v. School District*, 71 Mo. 495; s. c. 61 Mo. 176.

Employment of attorney need not be in writing nor formal — The contract made in behalf of a school board for the services of an attorney is binding, although not in writing and not pursuant to an order entered on the minutes of the board. *Page v. Township Board*, 59 Mo. 264.

Teacher's employment need not be proved by the record alone — Lee's Summit Board of Education directed a sub-committee to employ a certain teacher at a specified salary per month, on satisfactory proof of his qualifications, etc., without any limitation as to time. The teacher was employed for a period of ten months, and this fact reported to the board, and an entry was made on its records showing that he was "considered duly employed by entering into a written contract with the board." Still later, the secretary was ordered to "draw articles of agreement" — without further directions. *Held*, 1st, that presumably the agreement had already been entered into on terms known to the secretary, but that as the contracts of school sub-districts were required to be in writing the board thought a similar course formal and proper, and gave

directions accordingly; but that such a direction as to writing was not required by law as a condition on which it should take effect; nor was it a fair intendment to be derived from the action of the board. 2d. that inasmuch as neither the fact of the teacher's employment, nor the authority of the committee to employ him for ten months, were to be determined solely by the resolutions, minutes, etc., of the board, an instruction that the resolutions, minutes, etc., showed no such agreement or authority to make one, was improper. *Wilson v. Board of Education*, 63 Mo. 137. See also *Chambers v. Board, etc., of Cameron*, 60 Mo. 370.

Qualifications of directors — Test-oath — The case of *State v. Neal* (42 Mo. 119) following the case of *State v. Cummings* (36 Mo. 263 and 4 Wall. 277) held that in all cases "where the right to exercise any trade, calling or profession" was involved a provision requiring an oath as a prerequisite was unconstitutional. But in the case of *Blair v. Ridgley* (41 Mo. 63), the Supreme Court of Missouri held that a constitutional provision of the State requiring an oath as a condition for exercising the elective franchise is not contrary to the federal constitution. The attorney of the Board inclines to the opinion that the case of a candidate for school director falls within the scope of the first decision above cited. Atty's Opinion, I. Off. Proc. 10.

Qualifications of directors — Candidate's oath — At an election for school director held on November 10, 1870, the member elect had failed to take or file preceding such election what was known as the "candidate's oath," for which the eighth section of the second article of the State Constitution of 1865 provided in the following language:—

"No vote in any election by the people shall be cast up for, nor shall any certificate of election be granted to any person who shall not within fifteen days preceding such election have taken, subscribed or filed said oath."

On November 8, 1870, an election by the people was held, one question before them being, the rescinding of the section quoted.

The Attorney of the Board in an opinion rendered December 13, 1870, said that it was notorious and a matter of history that the amendment rescinding the section was adopted and that, notwithstanding the certificates of the Secretary of State and the proclamation of the Governor informing the people of the result of the election as provided by law had not yet been issued, still a candidate at an election taking place after the eighth day of November was not required to take or file the oath. The proclamation when issued would relate back to the time when the amendment was carried. Atty's Opinion, I. Off. Proc. 10.

Qualifications of directors — Payment of a city tax — Dog license not a city tax — "While the payment of a city tax is a condition prerequisite, which must be complied with before any party can hold the position of Director in this Board, the time of payment is immaterial, provided

such payment precedes the actual qualifying by the party elect as a Director, and that the payment of such a tax at any time, however remote from or proximate to such time of qualifying satisfies the condition. * * * The payment of a dog license imposed by the city of St. Louis does not satisfy the condition of the charter which requires that the Director shall have paid a city tax." Atty's Opinion, II. Off. Proc. 366, 381. See, also, opinions of several attorneys, II. Off. Proc. 386, 387.

3. Members, how elected — Qualifications of electors —

The board of president and directors shall consist of two members to be elected in each ward of said city, as the same now are, or hereafter may be established; and the first election shall be held by the same judges, on the same day and at the same time and place, in each of the wards of the city, as the election of mayor and aldermen of said city; but no mayor or alderman of the city, shall at the same time be a member of the board. And no person shall vote in the choice of the said directors, who is not a free white male person, over the age of twenty-one years, and hath resided at least twelve months previously to their election in the said city, and who shall be a citizen of the United States, and have paid a city tax.

See Act May 17, 1881 [Laws Mo. 1881, p. 207], fixing the number of directors of public school boards at one from each ward and prescribing the qualification of electors on page 63 of this compilation; also, IV. Off. Proc. 125. The reports of committees, of the Attorney and action of the Board in reference to its composition may be found in III. Off. Proc., pp. 129, 326, 338, 406, IV. Off. Proc. 89, 125.

Qualifications of voters — Time, place and manner of holding elections — In reference to a coming election of members the Attorney made a report calling the attention of the Board to the law on the subject. He said: "Section 1 of article 13 of the city charter provides that the Directors of this Board shall be elected by the *qualified voters of their respective wards* at an election held for that purpose on the first Tuesday in October of each year." [See this section on page 215 of this compilation.] "Section 3 of article 2 of said charter provides:" [Here follows the text of that section with the words, '*or at any other election held in pursuance of the laws of this State,*' italicised. See this section on page 203 of this compilation.] "The qualification of electors as defined by the charter of the Board has become impracticable, as the constitu-

tional provisions on which such qualification was dependent have been repealed. It may be assumed, therefore, that the above qualifications contained in the city charter are the only qualifications now prescribed for electors of this corporation. It will be seen that no elector can vote elsewhere than in the district where his name is registered, and whereof he is registered as a resident. The charter of the Board gives to it power 'to prescribe the time, place and manner of conducting the election of members of said Board' in the several wards of the city, and I have no doubt that the Board by virtue of this power, if it deems proper, may, for the purpose of expediency or economy, throw several election precincts in to one, and thus form new election districts." Atty's Report, II. Off. Proc. 328. See section 4 of School Board Charter on this page of this compilation. See Act providing for number of directors, qualifications of voters, and election districts on page 63 of this compilation.

Action to determine right to hold position of director—*Quo warranto* will lie in behalf of the state to determine the right of individuals to exercise the office of school director in a school district. *State ex rel. v. Rose*, 84 Mo. 198.

Judges of election, duties of—Under Rule 2, of the Board, the judges and clerks of school board elections should be sworn and should return with the poll-books the evidence thereof. Atty's Opinion, V. Off. Proc. 260.

Interpretation of rule—"Usual election"—The words "usual election" in the latter part of Rule 3 of the Board are used in the same sense as the words "general election" in Rule 1 and the meaning of the proviso is that no special election shall be held if the vacancy occurs within ninety days of a general election for school directors. Atty's Opinion, III. Off. Proc. 279.

4. President and powers of Board—The board of directors shall elect one of their own members to be president; and the said board of president and directors shall have power to judge of the qualifications, elections and returns of the members, to prescribe the time, place and manner of conducting the elections of members of said board in the several wards of said city, to compel the attendance of absent members on the meetings of the board, to punish members for disorderly conduct at the board, and by the concurrence of two-thirds of all the members elected expel a member, but not a second time

for the same offense, to make rules for the government of their own proceedings, to have charge and control of the public schools, and all the property appropriated to the use of public schools within the said city, and shall have power to make all rules, ordinances and statutes proper for the government and management of such schools and property, so that the same shall not be inconsistent with the laws of the land, and generally to do all lawful acts which may be proper or convenient to carry into effect the objects of this corporation.

See note "*Qualifications of voters — Time, place and manner of holding elections.*" — (Atty's Report, II. Off. Proc. 328), on page 11 of this compilation.

Any one who is a free white citizen residing in St. Louis, is by the terms of the charter of the Board [Section 1 of this Act on page 5 of this compilation] a member of the corporation and is thereby presumed to have notice of its rules. *McLellan v. Board, etc., St. Louis Public Schools*, 15 Mo. App. 362.

Interpretation of rule — Vacancy in presidency — Under a proper interpretation of Rule 9, which provides "'in case of the resignation, absence or other cause of disability of the President, the Vice-President shall do and perform all the duties of the President; ' the resignation of the President leaves the Vice-President to perform his duties during the balance of the year for which the officers are elected and there is no necessity for the election of any further presiding officer." Atty's Opinion, III. Off. Proc. 257, 263.

Interpretation of rule — "Pursuant to adjournment" — Rule 77 provides that "no election of officers shall be held except at a regular session or adjourned session held for that purpose." At a meeting held "pursuant to adjournment" an election for President of the Board was not valid. Atty's Opinion, III. Off. Proc. 263.

Board, judge of qualifications of members — By its charter the Board is sole judge of the qualification and election of its members. Atty's Opinion, I. Off. Proc. 10.

Contested election — Notice of, must be specific — A special committee on the contest of A. J. Geraghty for the seat in the Board of Joshua Cheever is advised by the Attorney, that Geraghty's notice of contest is not sufficiently specific, and Geraghty was given time by the committee to amend the same by specifying the names of the voters whose ballots are charged to have been illegally cast, and the votes charged to have been

illegally counted by the judges of election, in conformity with the law of the State on the subject of Elections. See Report of Committee, I. Off. Proc. 335. See Rule 6, Rules and Regulations of the Board as to the regulations respecting contested elections.

Contested election — Does ineligibility of candidate receiving highest number of votes work an election of candidate receiving next highest number? — “Without deciding whether, under the present state of the law in this country on that subject, the ineligibility of a candidate receiving the highest number of the votes cast could in any event work an election of the candidate receiving the next highest number, I deem it perfectly safe to say that before such result could possibly follow the following facts must concur: —

First — The disqualification must be such as attaches to the candidate on the day of election, and which is not removable by his own subsequent acts.

Second — The disqualification must be either notorious as a matter of law — that is, such of which voters are bound to take notice as a matter of law — or else notice of such disqualification must be shown to have been brought home to such a number of persons casting their ballots for the ineligible candidate that, by rejecting that number, the party having received the next highest number would actually appear to be elected.” Atty’s Opinion, II. Off. Proc. 366.

The candidate, who receives the greatest number of votes, except the successful candidate, is not entitled to the office, when the successful candidate is ineligible owing to personal disqualifications and such as were not patent to voters. *State ex rel. v. Vail*, 53 Mo. 97.

Contested election — Person elected must receive majority or plurality of votes cast — An election having been held upon the assumption that the Board should consist of only twenty-eight members, — one from each ward; and the candidate in one of the wards receiving the second highest number of votes demanding a seat, the opinion of the Attorney was requested upon the question whether he was entitled to a seat, assuming that there should be, under the law, fifty-six members in the Board — or two from each ward. The Attorney held that the claimant was not entitled to a seat. “A person to be elected must receive a majority or at least a plurality of the votes cast. So far is this carried that when the successful candidate turns out to be ineligible, so that his election is void, his opponent who receives a minority of the votes cast, is not elected. To use the language of the Supreme Court of this State, ‘the object of an election is to ascertain the choice of the majority.’ (*State ex rel. v. Vail* 53 Mo. 97, 117.)”

“By section 4 of the charter the Board has not only power to judge of the qualifications, elections and returns of its members, but also to prescribe the time, place and manner of conducting the elections in the several wards. I think this gives the Board full power to say when and

how vacancies shall be filled, and what particular vacancies shall be filled at any particular election.”

The Board having by resolution ordered an election to fill but one vacancy in the ward in which the claimant was voted for and a notice of such an election having been officially given, it follows that the election was held to fill but one vacancy in the claimant's ward and therefore, he not having received the highest number of votes cast was not elected. Atty's Opinion, III. Off. Proc. 338.

Illegal rules void — “The fact that the rules have to be amended in a certain specified manner, and that no amendment of the rules can take place in the manner thus prescribed until several sessions of the Board have taken place, does not prevent the election of officers *viva voce*, although the rule requires such election to be by ballot. If a vote by ballot is illegal, as opposed to the provisions of the Constitution, then the Board not only may but must disregard that part of the rule because its rules, if inconsistent with the laws of the State, have no binding force.” Atty's Opinion, III. Off. Proc. 67. The Constitution provides that all elections by persons in a representative capacity shall be *viva voce*. See Section 6 of Article VIII. of the Constitution on page 180 of this compilation.

Power of Board — May enforce bond for security of sub-contractors — “By the act of incorporation, the board is vested with ‘the charge and control of the public schools and all the property appropriated to the use of public schools within said city.’ It is also empowered ‘to do all lawful acts which may be proper or convenient to carry into effect the object of the corporation.’” The Board has the power to build school houses. It has the right to make contracts for their erection. And incidental to these powers has the right to exact conditions from its contractors which shall tend to secure and pay off the material-men and laborers. It may, therefore, enforce by action the provisions of a bond given it by a builder for the security of sub-contractors. Board, etc., St. Louis Public Schools *v* Woods, 77 Mo. 197; s. c. 6 Mo. App. 590.

Illustration — A board of education having contracted with a builder for the erection of a public school house, took from him a bond conditioned to secure the faithful performance of the contract. The builder having procured materials to be furnished and work to be done on the building, failed to pay for them, whereupon the laborers and material-men brought their actions to enforce mechanics' liens against the building, and obtained judgments, and the board paid the judgments. In an action on the bond; *Held*, that these facts constituted a breach of its condition, and the Board was entitled to recover the amounts so paid. State to use *v*. Tiedemann, 69 Mo. 515.

Extension of city limits vests school property within new limits in St. Louis School Board — By the fourth section of the charter, the cor-

poration is to have charge and control of the public schools, and all property appropriated to the use of public schools within said city. By the seventh section of the act of March 4, 1870 [Laws Mo. 1870, p. 488], the power and authority of the Board is expressly extended over all territory and population which is, or may hereafter be annexed to the city of St. Louis. Hence the beneficial use and ownership of all property held by the boards of education of different townships, annexed to the city by the act of March 30, 1872 [Laws Mo. 1871-2, p. 462], is vested in the School Board of the city of St. Louis by the terms of its own charter and the act extending the limits of the city, notwithstanding, the latter act does not in express terms vest the legal title of such property in the Board. Atty's Opinion, I. Off. Proc. 247. See seventh section of Act of March 4, 1870, on page 41 of this compilation.

Public School houses not subject to mechanics' liens—A school house and lot, the title to which is vested in the board of education, is not subject to a mechanics' lien. "The terms of the (mechanics' lien) law are sufficiently general to embrace school houses as well as all other buildings for public purposes; but the decisions of this court in *Dunn v. North*, etc., R. Co. (24 Mo. 493), and *McPheeters v. Merimac Bridge Co.* (28 Mo. 465), have restricted these terms of the special St. Louis act—and indeed of the general law which uses the same terms—to buildings, etc., belonging to private individuals. * * * School houses undoubtedly occupy a position not less favored by the constitution and laws than bridges." *Abercrombie v. Ely*, 60 Mo. 23.

"The statutes furnish no security to material men or laborers in the mechanics' lien law, as against the board, on account of its being a municipal corporation." Board, etc., *St. Louis Public Schools v. Woods*, 77 Mo. 197, 201.

The School Board not subject to garnishment—It is the opinion of the Attorney of the board that it is not liable to be summoned as a garnishee nor is its real estate subject to mechanics' liens. Atty's Opinion; I. Off. Proc. 26.

Public School property not subject to execution—It would be against the policy of our laws to permit the property of a board of education, held for public school purposes, to be taken in execution at the suit of a creditor. A sale of such property under execution may be enjoined. The beneficial plaintiff, a board of education, is a public corporation and therefore not subject to the process of execution, at least so far as any school building or property is concerned. [1 Wag. Stat., § 36, p. 295; I. Mo. Rev. Stat. 1879, § 759, p. 124.] "It has been expressly decided by this court, that a school house and lot, title whereof is vested in a board of education, is not the subject of mechanics' liens (*Abercrombie v. Ely*, 60 Mo. 23). If not subject to the lien, then not subject to a sale to enforce such lien." *State to use v. Tiedemann*, 69 Mo. 306, 308.

Use of Public School house for Sunday-school — The board of directors of a school district have no power to allow a school house to be used for the purposes of a Sunday-school — a use having no connection with the educational purposes for which the building was constructed. “A corporation, it was observed in *Blair v. Perpetual Insurance Company* (10 Mo. 559), is not only restricted from making contracts forbidden by its charter, but can only make those which are necessary to effectuate the purposes of its creation.” *Dorton v. Hearn*, 67 Mo. 301.

An Act approved March 26, 1881 [Laws Mo. 1881, p. 202, see page 138 of this compilation], has this provision: “Nothing in this section shall be so construed as to prevent the use of any school house for religious, literary or other public purposes, when such use shall be demanded by a majority of the voters of such district, voting at any annual or special meeting where such question was submitted.”

Rules which assume to control pupil at home illegal — Pupil attending social party — The school law (Wag. Stat., p. 1264, § 8; II. Stat. 1879, § 7045 amended; see page 172 of this compilation,) provides that the board of directors “shall have power to make and enforce all needful rules and regulations for the government, management and control of such schools and property as they shall think proper * * * not inconsistent with the laws of the land.” A board of directors having made a rule that no pupil should, during the school term, attend a social party the plaintiff, a pupil of the school, by the permission of his parents, violated the rule, and was expelled for so doing. In an action against the directors to recover damages for the expulsion, *Held*, that under the law, they had the power to make needful rules for the government of pupils while at school, but no power to follow them home and govern their conduct while under the parental eye; that in prescribing the foregoing rule they had gone beyond their power, and had invaded the rights of parents; but as there was no malice, oppression or willfulness on the part of the directors they were not liable in damages. *Dritt v. Snodgrass*, 66 Mo. 286.

Rule as to absence of pupils, legal — The court will interfere to prevent the enforcement by a district school board of a rule which manifestly reaches beyond their sphere of action, and relates to subjects no wise connected with the management or successful operation of the school, or which is plainly calculated to subvert or retard the leading object of our legislation on this subject; but the case should be a plain one. A rule which subjects any pupil absent six half days in four consecutive weeks, without satisfactory excuse, to suspension, does not belong to either of these classes, and will be enforced by the courts without inquiry whether it is a reasonable and proper one or not. The court, however, is of opinion that such a rule is reasonable and proper. *King v. Jefferson City School Board*, 71 Mo. 628, citing *Dritt v. Snodgrass*, 66 Mo. 286.

Rule prohibiting quarrelling and profane language, reasonable — A public school teacher, by the very nature of his employment, has the right to make needful rules for the government of the school, where the directors fail to do so, as authorized by statute [II. Mo. Rev. Stat. 1879, § 7045 amended; see page 172 of this compilation].

A rule forbidding pupils from quarrelling and using profane language on their way home is reasonable and needful, and the teacher can punish them for its infraction. *Deskins v. Gose*, 85 Mo. 485.

Rule requiring vaccination, proper — As to the legality of section 1, of rule 139 which requires children to be vaccinated as a condition of admission to the schools, the Attorney gives it as his opinion "that the courts will uphold the right of the Board to adopt and enforce the rule as a proper sanitary measure, and within the powers conferred by the fourth section of the charter." Atty's Opinion, III. Off. Proc. 319.

Teachers may be removed for causes over which they have no control — Teacher's notice of and consent to rules implied — Section 1 of Rule 133 of the Board is as follows: "The teachers elected at the close of the scholastic year shall hold their offices for one year, unless sooner removed by a vote of the majority of the Board." It is manifest from the object of the Board's incorporation that this rule is reasonable and even necessary. There may be causes for the removal of a teacher affecting the discipline of the school over which he presides, entirely outside of any question of his learning, ability, power of enforcing discipline or moral qualities, and outside of his own acts. A teacher in the public schools is bound to take notice of the rules governing the schools. It is his duty to familiarize himself with the rules; and his consent to them must be implied from his accepting the position of teacher. *McLellan v. Board etc., St. Louis Public Schools*, 15 Mo. App. 362.

Teachers may be appointed in vacation and on probation — The teachers committee has power under the rules to reappoint teachers in vacation, and they may, also, appoint teachers on probation. Atty's Opinion, IV. Off. Proc. 199.

Teacher's conduct towards pupil — Cruel treatment and abusive language used towards pupils fall within the definition of "incompetency or immorality," in the provision of the statute of the State of Missouri [II. Mo. Rev. Stat. 1879, § 7083], that a teacher's certificate may be revoked for incompetency or immorality. *Arnold v. School District*, 78 Mo. 226.

Corporal punishment — Instructions of the Court of Criminal Correction — The Attorney reports the instructions given by the St. Louis Court of Criminal Correction in the case of *State v. Jenner*, a case where the defendant, a teacher in the employ of the Board, inflicted corporal punishment upon a pupil.

“ First, — The Court declares the law to be, that if the defendant, Charles Jenner, was at the time of the assault and battery complained of teacher in a public school, and the witness, John Farley, was a pupil attending said school, and the assault and battery complained of consisted in the infliction of punishment by way of correction, by the defendant while carrying on said school as a teacher, upon the witness, Farley, as such pupil, then the defendant is not guilty of the assault and battery complained of, as there is no evidence before the Court that the punishment was such as to inflict lasting injury, or that it was inflicted by the teacher from any other motive than that of correcting the pupil.”

“ Second, — The Court declares the law to be, that a teacher whom the father intrusts with the education of his child, stands in place of the father in regard to matters connected with such education, and has authority to inflict such punishment on the child as in his judgment is necessary for the correction of any particular offense, without causing lasting injury to the child. If, therefore, the Court finds from the evidence that the defendant, Charles Jenner, in the honest performance of his duty as a teacher, inflicted the punishment (which is the assault and battery complained of) by way of correction of the witness, John Farley, a pupil of the school, then he is not guilty of the assault and battery complained of, even though the punishment was disproportionate to the negligence or offense of said John Farley, as a pupil.” *Atty’s Report, I. Off. Proc. 214.*

Pensions to Teachers — The Attorney of the Board is of the opinion that the payment of an allowance in the nature of a pension would not be upheld by the courts. *Atty’s Opinion, V. Off. Proc. 471.*

Loss of pupil’s clothing at school — Liability of Board — A pupil of the Stoddard School having lost certain articles of clothing, alleged to have been stolen from the wardrobe during school hours, the Attorney is of the opinion that the Board is not liable for the loss sustained by the pupil. “The School Board is only responsible for ‘that omission of care which even the most inattentive and thoughtless never fail to take of their own concerns,’ which is termed in law ‘gross negligence’ — for the reason that the Board gratuitously, for the benefit of its pupils, undertakes the duty of providing a place for the clothing of scholars, not required in the school room.” See Report of Building Committee, *V. Off. Proc. 530.*

Board cannot interfere with a dairy in vicinity of school unless it is a nuisance — “A dairy, as such, when properly kept, is not a nuisance, and hence the Board has no right to interfere in the carrying on of such a business in the vicinity of a school unless filth and uncleanness caused thereby can be shown to exist.” *Atty’s Opinion, IV. Off. Proc. 12.*

5. Terms of office — The members of the board of directors, shall be elected for the term of three years, and until

their successors shall be duly elected and qualified : and one-third of the number shall go out of office at the end of every year, and for that purpose the board shall cause its members to be divided by lot, into three classes, as nearly equal as possible. The first class shall go out of office at the end of one year, the second at the end of two, and the third at the end of three years, so that one-third of the board shall be elected every year. And when the establishment of new wards in the city shall require the election of new members of the board, such newly elected members shall be classed accordingly.

“A member of the Board may qualify at any day during the term for which he is elected, within a reasonable time after his election.” Atty’s Opinion, I Off. Proc. 280.

6. Stated and special meetings — Quorum — There shall be four stated meetings of the board in every year, the times and places of which shall be prescribed by resolution or ordinance of the board ; and the president, or any three members of the board, may call special meetings, by giving one week’s notice in writing to the other members of the board ; and in all meetings of the board, a majority of the whole number elected shall constitute a quorum to do business, but any smaller number may adjourn from day to day and compel the attendance of absent members.

Stated meetings of the Board are now held monthly. Rule 100, Rules and Regulations of the Board. Special sessions may be called by giving three days’ notice. Rule 101, Rules and Regulations of the Board.

7. Vacancies, how filled — That whenever a vacancy shall happen at the board, by death, expulsion, resignation, or removal from the city, of any member, the same shall be filled by an election in the proper ward, to be held and conducted in such time, place, and manner as shall be prescribed by the board.

8. Treasurer and Secretary — Record to be kept, etc.—

The board shall appoint a treasurer and secretary, and such other servants and agents as to them shall seem necessary to accomplish the great objects of the corporation, and prescribe their powers, duties, obligations and compensation. They shall cause a true and faithful record to be kept of all the acts and proceedings of the board, and shall lay the same before the General Assembly, or either house thereof, whenever required, and shall lay the same before a general meeting of the inhabitants of the city whenever one hundred qualified electors of the board shall by written application to the board require the same to be done. And for that purpose the said board shall have power to call a general meeting of the inhabitants of the city. And the said board of president and directors shall, at least once in every year, cause to be printed and published a true statement of the condition of the public schools under their charge, and of all property under their control, and a true and fair account of all the money concerns of the corporation.

Secretary's bond — Liability of sureties for acts of assistant — The Secretary of the Board's bond conditioned, "that he shall well and truly and faithfully perform all the duties of his said office as Secretary, as the same are now, or may be prescribed from time to time by the rules of the Board" will not hold the sureties thereon liable for the default of an assistant secretary appointed under a rule of the Board, adopted subsequent to the execution of the bond, reading thus, "'He (the Secretary) shall nominate to the Board, annually, at the regular session in May, or as soon thereafter as may be, an Assistant-Secretary, and he shall be responsible on his official bond for all acts of such Assistant.'" "The liability of sureties is construed strictly, and while the duties of the Secretary may be increased by rule without discharging his sureties, the liability for acts of a third person is in no sense a duty." Atty's Opinion, II. Off. Proc. 67.

Secretary, proper person to be served with application for renewal of lease — Declarations of deceased Secretary, evidence — The Secretary of the Board of President and Directors of the St. Louis Public Schools is a proper person to whom to deliver applications for renewal

of leases made by said Board with covenants of renewal. The declarations of a deceased Secretary, made when applied to in behalf of an applicant for renewal before the expiration of the time within which demand of renewal should be made, are admissible in evidence to show that the application for renewal had been received by him as Secretary in due time. *Blackmore v. Boardman*, 28 Mo. 420.

9. To take possession of school lands and title therein vested — It shall be the duty of the said board, as soon as conveniently may be, to take the possession, charge, and control of all the lands, or lots in or near the city of St. Louis, which have been either received for or granted to the inhabitants of St. Louis for school purposes, by any act of the Congress of the United States; and to dispose of and apply the same to the purposes of education, under the provisions of this act. And to that end the title to all such lands and lots (as far as this General Assembly can control the same) is hereby vested in the corporation hereby created.

See Act called Permanent Fund Act on page 59 of this compilation. Also Act of Congress of June 13, 1812, and subsequent Acts on pages 227-242 of this compilation.

10. Depositions of witnesses may be taken — It shall be lawful for said board to cause the deposition of witnesses to be taken, touching the title, locality, boundaries, or extension of any of the lands, lots, or real estate aforesaid: And the manner of taking such depositions shall be conformable to the provisions of the act entitled an act directing the mode of perpetuating testimony in this State, passed January 22, 1825, except that the application for the commission or dedimus need not be supported by any oath or affidavit; *provided*, that any person or persons claiming property in any of the said lands, lots, or real estate, may, upon complying with the requirements of the last mentioned act, proceed to take the depositions in relation thereto. And all such depositions, taken on either side as

aforesaid, shall be filed in the office of the clerk of the circuit court of St. Louis county, and the same, or authentic copies thereof, shall be legal evidence, and may be read in testimony in any suit in which they may be relevant, in any court in this State.

11. Treasurer, Secretary and members shall take an oath — The members of the board, and the treasurer and secretary, shall, before entering upon the discharge of their duties, take an oath before some judge, or justice of the peace, well and faithfully to perform the same.

12. Service of process on Board — In all legal proceedings against the said corporation, it shall be a sufficient service of the writ, declaration, notice, or other process to deliver a copy of the same to the president, or copies to any two members of the board.

Mechanics' liens — garnishment — Public school houses are not subject to mechanics' liens. *Abercrombie v. Ely*, 60 Mo. 23; *Board, etc., St. Louis Public Schools v. Woods*, 77 Mo. 197, 201. The School Board is not subject to garnishment. I. Off. Proc. 26. Public school property is not subject to execution. State to use *v. Tiedemann*, 69 Mo. 306.

Secretary may be served with application for renewal of lease — The Secretary of the Board is a proper person to whom to deliver applications for renewal of leases made by said Board with covenants of renewal. *Blackmore v. Boardman*, 28 Mo. 420.

13. This act a public statute — This act shall be deemed and taken as a public statute, and may be read and used in all courts and places, as other public laws are, without proof. And all the statutes, ordinances, resolutions, and other corporate acts of this corporation may be proven in all courts and places either by a sworn copy thereof or by a copy certified by the president or secretary, and authenticated by the seal of the corporation. And the General Assembly reserves to itself the power to alter or repeal this act, whenever it shall appear to have failed in accomplishing the great objects for which it is passed.

Proof of corporate acts of Board—Proof of the action of the Board is not limited to the method referred to in its charter. *Chambers v. Board, etc., of Cameron*, 60 Mo. 370. See, also, *Wilson v. Board, etc., of Lee's Summit*, 63 Mo. 137.

Official character of school trustees, how proved—The official character of school trustees may be proved by their acts and conduct as such; the oaths of office filed by them with the clerks of the County Courts and their official bonds are competent evidence to prove said official character. *Eads v. Wooldridge* 27 Mo. 251.

Amendment of charter—The Board is a corporation doing business under a special charter, which the legislature by its own reservation may alter or repeal for certain causes only. Therefore an act which is highly penal in its character (and for that reason must be strictly construed); that does not specifically name the Board nor can it without a forced construction fall within any of the classes named in the act; and for the reason that repeals by implication are not favored; and that no special act is affected by a general law unless the intention to do so is beyond doubt, it is clear was not intended to amend the charter of the Board. See Atty's Opinion, I. Off. Proc. 348.

The act above referred to is "An act restricting the liabilities of counties, cities, towns, villages, school townships, school districts, and other municipal corporations in matters of contract," etc. Approved March 27, 1874. See Laws Mo. Adj. Sess. 1874, p. 44.

14. Repeals former act—The act entitled "an act to incorporate a board of trustees for superintending schools in the town of St. Louis, passed by the legislature of the territory of Missouri," approved on the 30th day of January, 1817, be, and the same is hereby repealed.

February 13, 1833.

The Act which the charter of the Board repeals is as follows:—

AN ACT to incorporate a board of trustees for superintending Schools in the town of St. Louis. [1 Mo. Ter. Laws, 521.]

Be it enacted by the General Assembly of the Territory of Missouri, [as follows:]

1. Trustees—Powers of the corporation—William Clark, William C. Carr, Thomas H. Benton, Bernard Pratte, Auguste Chouteau, Alexander M'Nair and John P. Cabanne, and such other persons as shall be appointed, in a manner and to the number hereinafter directed, shall form and constitute a board of trustees for the regulation of schools in the town of St. Louis; and the said corporation and their successors, are

constituted and declared a body corporate and politic, and shall have full power to take and hold by gift, grant or otherwise, any estate, either real or personal, which may be given for the use of schools, and to lease, rent or dispose of to the best advantage, all the lands and other property which hath been, or may be given by congress to said town for the support of schools, and appropriate the same, with the avails of what is rented or leased as by law directed, and by themselves or their attorneys to institute, maintain or defend, any suit or suits which shall be sued or prosecuted, either in law or equity, for the recovery or defense of the said property, as they shall find necessary, to employ teachers, to direct the studies of the youth, to make and establish all necessary rules, regulations and by-laws for the good government of said schools; *provided however*, that the rules, regulations and by-laws shall not be repugnant to the laws of this territory; *and provided also*, that the said by-laws shall not tend to give a preference to any religious denomination whatever.

2. **Vacancies, how supplied** — The said trustees shall have power to fill all vacancies which may happen in their number, by death, removal or otherwise; and when and as often as they may deem it necessary to promote the interest of said schools, to appoint other persons in addition to their number; *provided however*, that the number of trustees shall never exceed thirteen.

3. **Meeting of board — Rules — Town property — Buildings** — The person first named in the board of trustees, be empowered to call the first meeting of the board, at such time and place as he may think fit, and when convened, the said trustees shall appoint a chairman, and adopt regulations for their own proceedings, shall take into consideration the state of the grants and donations for the use of schools, and devise means for securing the same and of putting them in a state of profit, and as soon as the state of the funds which may be appropriated will justify; shall erect or procure suitable buildings, and provide the necessary apparatus for instruction, and transact such other business as they shall find necessary and proper to be done towards establishing schools in the town of St. Louis.

4. **Records of proceedings — Report to legislature** — The trustees shall keep records of their proceedings, and when required, shall lay them, with the state of the funds, and appropriations by them made, before the legislature of the territory.

5. **Act shall take effect, when** — This act shall take effect and be in force from and after the passage thereof.

Approved, January 30, 1817.

ACTS OF THE MISSOURI LEGISLATURE

WHICH IN TERMS AFFECT THE

ST. LOUIS PUBLIC SCHOOLS.

BOARD MAY LEND MONEY.

AN ACT supplementary to an act to establish a corporation in the city of St. Louis, for the purpose of Public Education, passed February 13th, 1833. [Laws Mo. 1824-35, p. 446.]

Be it enacted by the General Assembly of the State of Missouri [as follows:]

1. **Board may lend money, etc.** — From and after the passage of this act it shall be lawful for the board of president and directors of the St. Louis public schools to lend the money arising from the sale or lease of the lands placed under their charge by law for the purposes of education in that city, from time to time, not exceeding the term of one year, at an interest not exceeding ten per cent. per annum, on good security, either real or personal, or both, until it shall become proper, in the opinion of the board, to invest such money otherwise for the purposes of education in St. Louis.

January 27, 1835.

The Act of February 13, 1833, is the School Board charter. See page 5 of this compilation.

Additional security for loans — Where there is danger that real estate, mortgaged to a county to secure the loan of school funds, will decrease in value, it is the duty of the county to demand additional security, and in case of failure to furnish it, to order an immediate sale of the property. Ray County to use *v. Bentley*, 49 Mo. 236.

QUALIFICATIONS OF DIRECTORS — DUTIES — NO COMPENSATION.

AN ACT to amend an act to establish a corporation in the city of St. Louis, for the purpose of education, approved February 13, 1833. [Local Laws Mo. 1845, p. 182.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

§ 1. **Certain officers not to be directors** — No member of the board of aldermen, or of the board of delegates, or any person holding office under the city of St. Louis, whether elected or appointed, shall be a member of the board of school directors of the city of St. Louis.

The Act of February 13, 1833, is the School Board charter. See page 5 of this compilation.

Health officer and Lafayette park commissioner disqualified — Neither the health officer of the city of St. Louis, nor a member of the Board of Improvement of Lafayette Park in said city is eligible to the position of member of the Board of Public Schools, as they come within the purview of section 1, of the act of March 17, 1845, which prohibits "any person holding office under the city of St. Louis" from being a member of the Board. The 21st section of the 5th article of the charter of the city of St. Louis declares, among other things: "The term officers whenever used in this act, shall include all persons holding any situation under the city government, except members of the city council." Atty's Opinion, I. Off. Proc. 272.

It also appears that a city officer being elected a director of the School Board, may, at any time before qualifying, resign his office under the city, and by so doing remove all obstacles to his holding the directorship of the Board. He cannot, however, properly qualify after election while he holds an office under the city. There is no time prescribed within which he must qualify, after his election. He may qualify at any day during the term for which he is elected and within a reasonable time after his election. Atty's Opinion, I. Off. Proc. 280.

Reasonable time in which to qualify — The question as to whether the time at which he seeks to qualify is within a reasonable time subsequent to his election it seems must be determined by the Board. Atty's Opinion, I. Off. Proc. 280.

§ 2. Certain persons ineligible — No person shall be eligible as a director in said board, who has not been a resident of the ward in which he is elected, at least twelve months prior to his election; and if any person, who shall have been elected from one ward, shall remove from said ward, he shall vacate his seat in said board, and an election shall be ordered and held as soon as may be to fill said vacancy, and said director shall moreover possess all the qualifications required in the act to which this is amendatory and supplementary, approved February 13th, 1833.

See Act of March 13, 1867, page 40 of this compilation.

§ 3. Directors not to borrow money from corporation — No director shall directly or indirectly borrow any money belonging to said corporation, either as principal or indorser.

§ 4. Duty of president and directors — It shall be the duty of the President and directors of this corporation to carry out and enforce all the provisions and requirements of the 8th section of the act referred to, in the 2nd section of this act.

§ 5. Punishment for violating law — If any director or officer of this corporation shall violate any of the provisions of this act, and of the act to which this is amendatory and supplementary, approved February 13, 1833, he shall be guilty of a misdemeanor in office, and shall be punished for such misdemeanor, as is provided for by law, and shall, moreover be disqualified from ever holding a seat in said board, or act as one of its officers.

§ 6. Directors to receive no compensation — No di-

rector shall receive any compensation for any services as director.

§ 7. **Repealing conflicting acts** — All acts, or parts of acts, conflicting or in anywise interfering with this act, are hereby repealed.

This act to take effect and be in force from and after its passage.

APPROVED March 17, 1845.

QUALIFICATIONS OF DIRECTORS, ETC.

AN ACT to amend an act entitled “an act to establish a corporation in the city of St. Louis for the purpose of public education,” approved February 13th, 1833. [Local Laws Mo. 1845, p. 194.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

§ 1. **Who ineligible as director** — That no person shall be eligible as a director in the corporation established by said act, who may be interested in any property held by lease from said corporation, or who is interested directly or indirectly in any title adverse to the title of said corporation, to any property which is claimed by said corporation.

§ 2. **Director not to purchase or lease property of the Board** — No person who is, or hereafter may become a director, or who shall hold any other office, in or under said corporation, shall purchase or lease from said corporation any property claimed by said corporation, nor shall any such person be interested directly or indirectly in any purchase or lease, by any other person, of any such property, and any sale or lease of any such property in which any such director or other [person] shall be so interested, shall be utterly null and void.

[§ 3.] **This act not to affect acquired titles** — This act shall not affect titles now held under said corporation, but

the same, and all contracts of said corporation heretofore made, shall be valid and effectual.

This act to take effect from and after its passage.

APPROVED, March 26, 1845.

The Act of February 13, 1833, is the School Board charter. See page 5 of this compilation.

COMMISSIONERS TO CONTROL SIXTEENTH SECTION.

AN ACT to authorize the sale of fractional section sixteen, township forty-five, north, range, seven, east. [Laws Mo. 1850, p. 706.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

§ 1. **Powers of commissioners** — The county court of St. Louis county are hereby authorized to appoint three commissioners, with full power and authority to take possession of section number sixteen, of township forty-five north, range seven east, and to sell the same or any part thereof in such manner and upon such terms as the court may direct.

§ 2. **Commissioners may compromise** — Said commissioners may agree upon terms of compromise with adverse claimants to said land, which agreement shall be signed by said commissioners and said adverse claimants, and then be submitted to the county court for approval, and if approved by the county court, deed may be executed accordingly.

§ 3. **Attorneys may be appointed** — Said commissioners may, with the approval of the county court, appoint one or more attorneys to investigate the title or to prosecute, or to defend any suits that may be commenced concerning said sixteenth section.

§ 4. **Proceeds of sale, how applied** — All money arising from the sale of said land shall be paid into the county

treasury, and loaned out as other school money for the use of the inhabitants of that part of the township outside of the city of St. Louis, and the interest arising from the loaning of the same shall be applied to the support of township or district schools, as in other cases.

§ 5. **Expenses, how paid** — The said county court may allow to said commissioners all necessary expenses in prosecuting or defending suits, surveying and platting the land, and for advertising and selling the same, to be paid out of the proceeds of such sale.

§ 6. **Said land may be divided, etc.** — Said commissioners may lay off streets or avenues through said land, and divide the same into blocks or parcels, in such way as they may consider most advantageous in making sales.

§ 7. **Repealing previous act** — An act respecting township forty-five north, in range seven east, approved March 8th, 1849, be, and the same is hereby repealed.

This act shall take effect and be in force from and after its passage.

Approved March 3, 1851.

See Act of March 8, 1849, repealed by above Act. Laws Mo. 1848-9, p. 632.

LIMITATIONS OF ACTIONS FOR REALTY BY ST. LOUIS SCHOOL BOARD.

AN ACT to secure and preserve more completely certain school property in the county of St. Louis. [Laws Mo. 1856-7, p. 679.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

§ 1. **Relates to actions and suits involving school property** — No law or statute of this State, limiting the time for commencing any action, suit, or other proceeding, for the recovery of the possession of real estate, or for the re-

covery of any right, title, or interest therein, shall prevent or prohibit the Board of President and Directors of the St. Louis Public Schools from commencing any such action, suit, or other proceeding, at any time within ten years after the expiration of the time limited in such law or statute for the commencement thereof, nor from prosecuting the same to final judgment and execution, or final determination, in the same manner, and under the same rules and regulations, as if such action, suit, or other proceeding had been commenced within the time prescribed by such law or statute.

§ 2. How this act to be amended—No law hereafter passed shall be deemed or construed as changing, altering or repealing the whole or any part of this act, unless this act be expressly mentioned in such law.

This act shall take effect and be in force from and after its passage.

Approved January 30, 1857.

SALE OF SCHOOL LANDS IN TOWNSHIP 45, RANGE 6.

AN ACT to provide for the sale of School Lands belonging to Township 45, Range 6. [Laws Mo. 1856-7, p. 678.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

§ 1. County court shall appoint commissioners to sell—The County Court of St. Louis County are hereby authorized to appoint three commissioners to sell the unsold portion of the school lands belonging to township forty-five, range six, in said county.

§ 2. Powers and duties of commissioners—Said commissioners shall have power to cause said lands to be subdivided and sold, in such manner or on such terms as they may deem best for the interest of the inhabitants of said township.

§ 3. Commissioners shall report to county court and

make deeds — After the sale of any or all of said property, they shall report such sale to the County Court aforesaid, and upon the approval of the same by said Court, said commissioners shall execute, acknowledge and deliver to the purchasers deeds for the property sold.

§ 4. **Proceeds of sales, how disposed of** — All money arising from such sales shall be paid in to the County Treasury, and loaned out as other township school funds, for the benefit of the inhabitants of said township.

§ 5. **Compensation of commissioners** — Said commissioners shall receive no compensation for the services required of them by this act.

This act shall be in force from and after its passage.

Approved February 12, 1857.

ACCEPTING LANDS FOR SCHOOL PURPOSES.

AN ACT accepting and receiving certain school lands in St. Louis county. [Laws Mo. 1864-5, p. 336.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

§ 1. **Accepting certain lands** — All of the lots, tracts, pieces and parcels of land, and all of the right, title and interest therein which were granted, relinquished and conveyed by the United States to the State of Missouri by an act of Congress approved June the fifteenth, eighteen hundred and sixty-four, entitled “an act concerning certain school lands in township forty-five north, range seven east, in the State of Missouri,” shall be and the same are hereby accepted and received by the State of Missouri from the United States, for the support of schools in said township.

§ 2. **Courts to take judicial notice** — All of the courts and judicial officers of this State shall take judicial notice of this act and of said act of Congress, and said courts and

officers shall also take judicial notice of the existence, the extent and boundaries of the common field mentioned in said act of Congress.

§ 3. Copies of this act to be sent, to whom — The Governor shall cause a copy of this act, duly certified under the great seal of this State, to be forwarded as soon as practicable to the Commissioner of the General Land Office.

This act shall take effect and be in force from and after its passage.

Approved January 14, 1865.

See Act of Congress granting to the State of Missouri the lands accepted by above Act. Approved June 15, 1864 [13 U. S. Stats. at Large, 132], and Act of State legislature, vesting these lands in the St. Louis School Board, approved May 12, 1879 [Laws Mo. 1879, p. 197], on page 56 of this compilation.

REVENUE OF THE ST. LOUIS PUBLIC SCHOOLS.

AN ACT amendatory of an act approved December 17, eighteen hundred and sixty-three, entitled "an act amendatory of the first section of an act entitled 'an act revising the laws concerning the revenue of the Saint Louis Public Schools,'" approved March the second, 1859, [Laws Mo. 1865, Adj. Sess. 271.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

§ 1. Tax to be levied annually — There shall be levied and collected annually on all real estate and personal property within the corporation limits of the city of Saint Louis, made taxable by law for State purposes, a tax of not more than one-half of one per centum, which tax shall be paid to the corporation called "The Board of President and Directors of the Saint Louis Public Schools," and used and applied by said corporation in the same manner and for the same purposes as other money belonging

to said board, and in strict accordance with the provisions of the laws in relation to said corporation.

Merchants' and Manufacturers' tax — December 9, 1879, the Attorney called attention to the fact, "that while the goods, wares, merchandise, raw material and appliances of merchants and manufacturers in this city are annually taxed for State purposes, no tax has been levied or collected on that class of property for the schools of this city." The matter was referred to the Ways and Means Committee. III. Off. Proc. 342.

Jan. 13, 1880, the Ways and Means Committee's report recommending that the Attorney be instructed to take such steps as are in his judgment necessary to enforce the assessment and collection of the school tax upon all classes of property made taxable by law was adopted by the Board. III. Off. Proc. 372.

Nov. 9, 1880, it appearing from the Attorney's Reports (IV. Off. Proc. 33) that a suit against the Collector to compel him to collect the tax referred to, had been decided against the Board, the whole matter was referred to the Legislative Committee to present it to the legislature so that legislation might be had which would clearly give the right to collect the tax. IV. Off. Proc. 48.

March 8, 1881, the Legislative Committee reported that the General Assembly had been memorialized and that a committee had appeared before committees of both houses urging the passage of an amendment curing the defect in the law. IV. Off. Proc. 112.

April 12, 1881, the Legislative Committee reported that the amendment suggested to the legislature did not pass. IV. Off. Proc. 125.

Dec. 9, 1884, a resolution to appoint a committee of five, to take into consideration the question of collecting the Merchants' and Manufacturers' tax was adopted. V. Off. Proc. 282.

Feb. 10, 1885, the committee having reported recommending that steps be immediately taken to enforce the law (V. Off. Proc. 305) the matter was referred to it with the Attorney and with power to act. V. Off. Proc. 324.

The Committee on May 12, 1885, and June 23, 1885, reported progress. V. Off. Proc. 365, 395.

See chapters 126 and 129, and article 11 of chapter 145, [pp. 1238, 1244, and 1361] of II. Missouri Revised Statutes 1879 on pages 101, 102, 115 of this compilation.

Power to tax merchants — For a full discussion of the constitutionality of an act taxing merchants, see *Crow v. State*, 14 Mo. 237.

Power to collect school taxes on Merchants' statements — Under the laws in force in 1869 (Sess. Acts 1868, p. 76; Wag. Stat. 938-9, § 6; Sess. Acts 1867, pp. 161-2, §§ 7, 8; Wag. Stat. 1264-5, §§ 7, 9. See also

Id., p. 1246, § 18, and 1243, § 6), school corporations in towns and villages were authorized to include merchants' statements as taxable, and to collect school taxes upon such statements. State *ex rel. v. Kinney*, 48 Mo. 373.

§ 2. **Rate of taxation** — The Board of President and Directors of the Saint Louis Public Schools, shall determine the rate of taxation for each year under the provisions of the foregoing section by resolution, a copy of which duly certified according to law, shall be handed to the Collector of St. Louis county and to the Clerk of the County Court of St. Louis county on or before the fifteenth day of October in each year.

§ 3. **Authority of Collector** — The Collector of St. Louis county shall have authority and it is hereby made his duty, to collect the tax in the first section of this act specified in the same manner and under the same rules, regulations and restrictions, penalties, liabilities and responsibilities, and with the same powers as shall be provided by law for the collection of the State and county revenue in said county.

§ 4. **Collector to pay moneys to Board once a month** — The Collector of said county shall, at least once in every month, and oftener if required in writing by the President of said board, pay over to said board all moneys collected by him, to which said board shall be lawfully entitled.

§ 5. **Compensation of Collector** — The said Collector for his services under this act shall be entitled to the same compensation as shall be allowed by law for similar services in relation to the collection of the State and county taxes in said county.

§ 6. **Collector's bond** — The Collector of Saint Louis county shall, within ninety days after his appointment and before entering upon the duties of his office under this act, enter into bond payable to said corporation in such sum as said board may require with good and sufficient securities,

to be approved by said board, conditioned that he will faithfully and punctually collect, account for and pay over to said corporation, all moneys received and collected by him under this act during his continuance in office, and that he will in all things faithfully perform all his official duties as collector under this act.

See City Charter, Art. XIII., Sec. 3, on page 216 of this compilation.

§ 7. Failure to enter into bond vacates Collector's office—If said Collector shall not within ninety days after his appointment as collector as aforesaid, enter into a bond as provided in the immediately preceding section of this act, his said office of collector of said county of Saint Louis shall be deemed vacant, and such vacancy shall be filled in the same manner as if he had resigned, and he shall not be eligible or reappointed to said office for one year thereafter.

Sureties on Treasurer's bond—Where it was provided by statute that the county treasurer should be also the treasurer of the school fund, but it was required that a separate and different bond should be given for the management of the school moneys from that given as treasurer proper, the sureties on the bond of the treasurer proper are not liable for his default to properly account for moneys which had come into his hands as treasurer of the school funds. State to use *v. Johnson*, 55 Mo. 80.

Sureties of public officer only responsible for performance of duties prescribed by law—The sureties of a public officer are only responsible for his performance of the duties assigned him by law. Thus, where the law requires the clerk of the county court to keep the bonds for the loan of school funds, if by an order or permission of the court, these duties are devolved upon the treasurer, the sureties of the treasurer will not be responsible therefor. *Nolley v. Callaway County Court*, 11 Mo. 447.

And where it appeared that under the law it was not the duty of the auditor of St. Louis county to collect the county and township moneys (Acts 1874, pp. 162, 167, §§ 69, 86), it was held that the sureties on his official bond could not be held responsible for school moneys collected by him and not accounted for. State to use *v. Bonner*, 72 Mo. 387. See also State *ex rel. v. Moeller*, 48 Mo. 331.

Construction of bond—It has been held by the State Supreme Court that the separate bond required by section 42, page 1251, Wagner's Statutes, to be given by the county treasurer as custodian of school moneys, need not specify those moneys. The condition prescribed by section 42 is, that the treasurer "will faithfully disburse and pay over according to law all such funds and moneys as may from time to time come into his hands as such treasurer." The sureties on a bond so conditioned will be liable for any school moneys received and not accounted for by the treasurer. *State ex rel. v. Cook*, 72 Mo. 496.

Construction of Treasurer's bond—It has been held that the office of treasurer of St. Louis county having been in 1876 abolished by the adoption of the scheme and charter, the treasurer became a mere custodian of the township school funds in his hands, and his refusal to turn them over upon the joint demand of the School Board and the county court cannot be justified on the ground that these agencies were about to divide the fund in a manner not warranted by law.

A treasurer's bond which covers "funds for school purposes belonging to the different townships, arising from whatever sources," covers all school funds, both county and township, which come into the treasurer's hands, whether capital or increase. *State to use v. Rechtien*, 7 Mo. App. 339.

Procedure — Mandamus — Official bond—The fact that the treasurer of a board of public schools has a remedy on the official bond of a county treasurer for non-payment of money, will not prevent his proceeding against him by *mandamus*. *State ex rel. v. Dougherty*, 45 Mo. 294.

Mandamus of County Treasurer — Amount due—In *mandamus* by the treasurer of a board of public schools against a county treasurer for non-payment of money owing to the board, the court will not investigate the question of the amount to be paid, or order the payment of a specific sum; but will require him to pay over the actual balance of collections in his hands, whatever it may be. *State ex rel. v. Dougherty*, 45 Mo. 294.

Care required of custodian of School Funds—A treasurer of a school township is liable on his official bond for school funds deposited in bank, and lost through the failure of the bank, although he was not guilty of any want of care or prudence in failing to ascertain its financial condition. The court quotes from the United States Supreme Court as follows: "Public policy requires that every depositary of the public money should be held to a strict accountability; not only that he should exercise the highest degree of vigilance, but that 'he should keep safely' the moneys which come to his hands. Any relaxation of this condition would open a door to frauds, which might be practiced with impunity." (*United States v. Prescott*, 3 How. 578. And see cases there cited.) *State ex rel. v. Powell*, 67 Mo. 395.

§ 8. **How tax to be assessed** — The same assessment on property within the corporate limits of the city of Saint Louis, which shall be made from time to time for the State and county taxes, shall be deemed and used as the lawful and proper assessment in levying and collecting the tax authorized by this act. And the payment of the taxes authorized by this act shall be enforced in the same manner and under the same rules and regulations as shall be provided by law for the enforcement of the payment of the State and county taxes in said county.

§ 9. **Further duties of Collector** — The collector of said county shall perform such other duties under this act, not herein specified, as he shall be required by law to perform in relation to the collection of the State and county taxes in said county.

§ 10. **County Clerk's duties** — The Clerk of the County Court of Saint Louis county shall perform the same duties under this act that he shall be by law required to perform in relation to the State, county or other taxes in said county, and for his services under this act he shall be allowed and paid by said board such compensation as said board of directors shall deem reasonable, just and proper.

See the several Acts imposing upon the City Register the duties in reference to the revenue formerly performed by the county officers on pages 130, 157 of this compilation.

§ 11. **How this law is to be repealed** — No law hereafter passed shall be deemed or construed as changing, altering or repealing the whole or any part of this act, unless this act be expressly mentioned in such law.

This act shall take effect and be in force from and after its passage.

Approved December 19th, 1865.

CHANGING BOUNDARIES OF WARDS.

AN ACT concerning the election of directors of the board of president and directors of the St. Louis public schools. [Laws Mo. 1867, p. 165.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Director's seats vacated in certain cases— Whenever the boundaries of any ward in the city of St. Louis shall be changed, the seats of directors of "the board of president and directors of the St. Louis public schools," elected from said ward, shall be vacated, and said board shall order elections for the seats so to be vacated, in the manner and at the time as is now provided by law, and by the rules of said board; but the present directors shall continue in office until their successors are elected and duly qualified.

SEC. 2. New wards entitled to same number as old— Whenever the number of wards of the city of St. Louis shall be increased beyond the number of ten, the new wards, so created beyond the number of ten, shall be entitled to the same number of directors in the said board as each other ward in the city of St. Louis.

SEC. 3. Residence qualification of director — Hereafter no person shall be eligible to the office of director of said board who has not resided in said ward at least six months immediately prior to such election.

SEC. 4. Act to take effect, when — This act shall take effect and be in force from and after its passage.

Approved March 13, 1867.

See Act of March 17, 1881 [Laws Mo. 1881, p. 207], on page 63 of this compilation; also section 4 of Article I. of City Charter on page 202 and Act of March 31, 1885 [Laws Mo. 1885, p. 72] on page 66 of this compilation.

TRANSFER OF CARONDELET SCHOOL PROPERTY.

AN ACT providing for the merging of the City of Carondelet into the City of St. Louis, and in relation to the public schools therein, contains the following [Laws Mo. 1870, Adj. Sess., p. 488]:

SEC. 7. School property transferred to St. Louis School Board—All property belonging to or vested in the corporation known as the board of directors of the Carondelet public schools, shall hereafter vest in and the same is hereby transferred to the corporation known as the board of president and directors of the St. Louis public schools, and all powers and authority now vested by existing laws in said board of president and directors of the St. Louis public schools shall henceforward extend over the territory, population, property and rights of action over which the said board of directors of the Carondelet public schools up to this time exercised any authority, and over all that territory and population which is or may hereafter be annexed to the city of St. Louis. An act to provide for the organization and support of the public schools in the city of Carondelet, approved March 23, 1863, and also an act amendatory of said act, approved December 18, 1863, and all other acts amendatory or inconsistent with this act, so far as they are inconsistent herewith, are hereby repealed.

SEC. 8. When act takes effect—This act shall take effect and be in force on and after the first Tuesday in April, 1870, and not before that time.

Approved March 4, 1870.

Application of purchase-money—“The State granted the full property in these lands to the city of Carondelet for the benefit of schools, with directions to compromise disputed titles and to make sales, applying the proceeds to the purposes of the grant. The power of establishing, regulating and supporting common schools was vested in the council by the charter; so that the corporation was as well one for school purposes as for municipal regulation. * * * Under the circumstances there was no duty [imposed] on the purchaser to see to the application of the purchase-money.” *Bowlin v. Furman*, 28 Mo. 427, 432.

QUALIFICATIONS OF DIRECTORS — CONTRACTS WITH BOARD.

AN ACT in relation to the qualification of the directors of the St. Louis public schools. [Laws Mo. 1870, Adj. Sess., p. 239.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Disqualifying persons interested in contracts — No director of the St. Louis public schools shall be directly or indirectly interested in contracts for building or repairing school-houses, nor in furnishing supplies to the schools, and any director becoming so interested shall be immediately suspended by the president of the board who shall notify the board of directors of such fact, whereupon the board of directors shall, as soon as practicable convene to hear and determine the same, and if by a two-third vote of the board of directors he be found so interested, he shall be immediately dismissed from the board and the president shall issue a proclamation for an election to fill the vacancy.

SEC. 2. When act takes effect — This act shall take effect and be in force from and after its passage.

Approved March 24, 1870.

The Attorney of the Board holds that, while it must be conceded that the framers of the above act most likely intended to reach the School Board and its members, and that such a construction might prevail in the courts, yet it may be doubted whether it does apply to the Board.

The State Constitution provides that "no law enacted by the General Assembly shall relate to more than one subject, and that shall be expressed in the title; but if any subject embraced in the act be not expressed in the title such act shall be void only to so much thereof as is not expressed." The act does not name the Board of President and Directors of the St. Louis Public Schools nor its members. Nor does its title relate to the subject embraced in the act which relates exclusively to the offense and not to the qualification of directors. Atty's Opinion, I. Off. Proc. 363. But see motion of Mr. Peacock, I. Off. Proc. 364. Also, motion of Mr. Lippman on same page and adoption of Report of Committee on Rules, I. Off. Proc. 371.

LIST OF SCHOOL LAND LEASES TO BE RETURNED.

AN ACT supplementary to an act entitled "An act to establish a corporation in the city of Saint Louis for the purpose of public education," approved February 13, 1833. [Laws Mo. 1873, p. 360.]

Be it enacted by the General Assembly of the State Missouri, as follows:

SECTION 1. Secretary to make return of leased lands — It shall be the duty of the secretary of the board of president and directors of the Saint Louis public schools to make return under oath to the president of the board of assessors of Saint Louis county, during the month in which the assessment of real estate begins in each and every year, of all such lands or lots of ground owned by the board of president and directors of the Saint Louis public schools, and disposed of by such board to individuals or corporations by lease, on which the leases are subsisting and in force on the first day of such month.

SEC. 2. Form of return prescribed — Such return shall be made in the form of a list containing the description of each lot or parcel of land, with the name of the lessee set opposite thereto, and shall be *prima facie* evidence of the facts therein stated in favor of the board of president and directors of the Saint Louis public schools.

SEC. 3. Inconsistent acts repealed — All acts or parts of acts inconsistent with or contrary to this act are hereby repealed.

SEC. 4. Act to take effect, when — This act shall take effect from and after its passage.

APPROVED February 21, 1873.

THE SCHOOL BOARD MAY MAINTAIN A LIBRARY.

AN ACT to authorize the "Board of President and Directors of the St. Louis Public Schools" to maintain a free public library and reading rooms. [Laws Mo. 1874, Adj. Sess., p. 383.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Board may maintain library — The "Board of President and Directors of the St. Louis Public Schools" is hereby authorized to appropriate out of its annual income, for the maintenance of a public library and reading room, with or without branches, which shall be free for purposes of reading and reference, under such rules and regulations as said board may, from time to time, prescribe, such sum as in their discretion may be proper.

SEC. 2. Act to take effect, when — This act to take effect and be in force from and after its passage.

APPROVED March 27, 1874.

Acts and contracts affecting library — The Charter of the Public School Library Society which society formed the nucleus of the present St. Louis Public Library, is as follows:

AN ACT to incorporate a public school library society in the city of St. Louis. [Laws Mo. 1864, p. 178.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

§ 1. Names of incorporators and corporation — That S. D. Barlow, Ira Divoll, C. F. Childs and such other persons as may be associated with them, in compliance with the conditions expressed in sections two and three of this act, are hereby constituted a body politic and corporate, by name and style of the "Public School Library Society of St. Louis," and by that name they and their successors shall be known in law, have perpetual succession and a common seal, and may contract, be contracted with, sue and be sued, plead and be impleaded in any court of law or equity, and may purchase, receive and hold, alien and convey any real or personal property which may be given or dedicated to, or purchased by them for the use of said society.

§ 2. Objects of society — Qualifications of life members — The ob-

ject of said society is declared to be the establishment and maintenance of a public school library and lyceum, and all persons who have been heretofore, are now or may be hereafter directors, officers, teachers or pupils of the St. Louis public schools, may become life members of said library by paying to the board of trustees herein provided for the sum of twelve dollars. No other persons than those herein designated shall be eligible to life membership of said library, but there may be annual subscribers to the same, under such regulations as the board of trustees may determine.

§ 3. Life members of library, privilege of—No persons except life members of said library are entitled to become members of the society hereby established; directors, officers and teachers of the public schools, and all other adult persons, shall become members of said society by virtue of their life membership of said library, but the conditions on which pupils shall be entitled to membership of said society shall be determined by the board of trustees.

§ 4. Board of trustees—The powers of the society hereby established shall be vested in a board of sixteen trustees, any nine of whom shall constitute a quorum to transact business. The president of the board of public schools, the superintendent of public schools, the principal of the high school and the principal of the normal school, in St. Louis, and their successors, are hereby declared permanent members of the said board of trustees, by virtue of their respective offices. The remaining twelve members of said board, six of whom may be females, shall be elected by said society from their own members for the term of three years and until their successors shall be duly elected and qualified, and one-third of the number shall go out of office every year, and for that purpose the first board shall cause its elected members to be divided by lot into three equal classes. The first class to go out of office at the end of one year, the second at the end of two, and the third at the end of three years. Any vacancy that may occur in this board by death, resignation or otherwise, shall be filled for the remainder of the term by the board itself.

§ 5. President of board—Registry to be opened—The president of the said board of public schools shall be *ex-officio* president of the said board of trustees, and he is hereby authorized to open or cause to be opened a book of registry, wherein shall be recorded the names of all eligible persons who may desire to become members of said society, and when fifty or more persons shall have thus enrolled their names, he shall call them together, at such time and place as he may designate, and when assembled they shall proceed to elect twelve trustees, who, when elected, shall be classified as directed in the foregoing section.

§ 6. Powers of board of trustees—The said board of trustees shall have power to appoint such officers and agents as may be necessary to accomplish the objects of the society, and to prescribe their powers, duties

and compensation, and to make and enforce all such rules, regulations and by-laws as may be required in the transaction of their business, and the management of the said library; *provided*, that nothing therein contained shall be repugnant to the provisions of this act or the laws of the land.

§ 7. Additional powers of board of trustees—The said board of trustees shall have power to assess all life members of said library any amount not exceeding three dollars per annum, but no such assessment shall be made without the concurrence of at least two-thirds of the members of said board.

§ 8. St. Louis School Board may appropriate funds for library—The Board of St. Louis Public Schools are hereby authorized to appropriate out of their general fund a sum not exceeding five thousand dollars for the benefit of said society, to be used exclusively for the purchase of books for said library, and they are further authorized to provide rooms for the accommodation of said library.

§ 9. Property of society exempt from taxation—All property, both real and personal, belonging to said society, and used for the exclusive benefit and purpose of said library, shall be exempt from all taxation of every nature and kind whatever.

§ 10. Corporation unlimited by what—The corporation hereby established shall not be limited in its duration by anything contained in the first clause of the first section of the first article of "an act concerning corporations," approved November 23, 1855.

This act to take effect and be in force from and after its passage.

Approved February 2, 1865.

THE AGREEMENT BETWEEN THE PUBLIC SCHOOL BOARD AND WASHINGTON UNIVERSITY [III. OFF. PROC. 356], IS AS FOLLOWS: —

This agreement, made and entered into this twenty-fourth day of September, eighteen hundred and sixty-eight, by and between the Board of President and Directors of the St. Louis Public Schools, party of the first part, and the Washington University, party of the second part; Witnesseth: That whereas said party of the second part has this day executed and delivered to said party of the first part its deed, conveying to said party of the first part certain real estate and personal property, of even date herewith; Now, therefore, in consideration of said conveyance, and in further consideration of the covenants and agreements entered into between said parties, the said party of the first part hereby covenants and agrees to and with said party of the second part that elementary and preparatory branches of polytechnic or technological instruction, being part of the instruction contemplated by the department of said University known as the "O'Fallon Polytechnic Institute," shall be

permanently established by said party of the first part for the special benefit of those engaged in or preparing for mechanical or other industrial pursuits, and that a sum of at least six thousand dollars (\$6,000) shall be annually applied to said Polytechnic instruction, and to the maintenance and increase of the library of said institute, which institute shall be known as the "O'Fallon Polytechnic Institute," and that the name of the late Mr. Henry Ames shall be associated with such library or educational purposes in some appropriate manner forever. And in consideration of the premises said Washington University agrees to pay to said party of the first part the sum of one hundred thousand dollars (\$100,000) on the first day of December, A. D. 1872; provided, however, that if by reason of the provisions of the thirteenth paragraph of the second article of the last will of the late Mr. Henry Ames, and the order of payment therein established and the payment of the tax on successions due to the United States, and for no other reasons, the legacy to the Washington University, named in said will, shall be reduced in amount, then, and in such case, the sum of money to be paid by said party of the second part to said party of the first part shall be reduced to the same extent. In testimony whereof said parties of the first and second part have executed these presents in duplicate on the day and year first above written.

WASHINGTON UNIVERSITY,

BY W. G. ELIOT,

Attest:

President.

[SEAL.]

S. A. RANLETT,

Secretary.

BOARD OF PRESIDENT AND DIRECTORS OF THE ST. LOUIS PUBLIC SCHOOLS.

BY FELIX COSTE,

President.

Attest:

[SEAL.]

GEO. M. FICHTENKAM,

Secretary.

THE AGREEMENT EFFECTING THE TRANSFER OF THE PUBLIC SCHOOL LIBRARY TO THE BOARD OF PUBLIC SCHOOLS [PUBLIC SCHOOL LIBRARY RULES, 1870, p. 3], IS AS FOLLOWS: —

Know all men by these presents, that the Public School Library Society of St. Louis, a body corporate, incorporated under the laws of Missouri, party of the first part, in consideration of the sum of one dollar to it paid by the Board of President and Directors of the St. Louis Public Schools, party of the second part, and in consideration of the covenants and agreements hereinafter set forth, entered into, and to be performed by said party of the second part, has sold, assigned and

delivered, and by these presents does sell, assign and deliver to said party of the second part, as absolute owners of the same, all the books, maps, plats, fixtures, furniture, and personal property which now constitute and belong to the Public School Library. And said party of the second part, in consideration of said transfer, has agreed, and by these presents does agree, as follows, to-wit:

First. To keep the books, maps, plats, and other personal property now belonging to and forming part of said Library, and such additions as may be made to the same from time to time, in convenient and accessible rooms or room, giving accommodation to readers, and to supply such rooms or room with light and heat; to expend in addition thereto, annually, not less than three thousand dollars, and all other revenues of said library, for the maintenance of said library hereby conveyed, for the purchase of books and periodicals to be added to said library, and for defraying salaries and expenses incurred in maintaining and enlarging the same.

Secondly. To allow access to and use of the library to all persons during their lives who are now life members or honorary members of said Public School Library Society, or who may hereafter obtain such membership of said Society for themselves or others as a consideration for subscription heretofore made by them; but such use of and access to said library shall be subject to such rules and regulations as said party of the second part, or the Board of Managers hereinafter mentioned, shall from time to time establish. Said Board of Managers shall forthwith establish uniform rules and regulations for the admission to the use of said library of those who may hereafter become members of the Public School Library Society of St. Louis, and other persons who are not members of said Society. The rules and regulations thus established shall not take effect until approved by said party of the second part, and they may be modified by said party of the second part in the same manner as the rules established for the government of said School Board.

Thirdly. Said party of the second part may take from said library and dispose of such books as may not, in their opinion, be a useful part of the same. The property hereby acquired may be kept by said party of the second part in separate rooms or in the same rooms or apartments with other collections of books or libraries belonging to or placed under the charge of said party of the second part; and said School Board may temporarily or permanently intrust to said Board of Managers the the control and management of other libraries or collections of books belonging to or placed under the charge of said party of the second part.

Fourthly. That the library purchased of said party of the first part, and the permanent additions thereto, shall be managed by sixteen agents

of the party of the second part, who shall be called the Board of Managers of the Public School Library, and shall be appointed as follows: The said party of the second part, on the second Tuesday of May, 1869, or as soon thereafter as practicable and every year thereafter, shall select, in such manner as they may determine, nine persons to act as such managers; and all persons over the age of eighteen years, who shall be entitled to the use of said library for life, shall meet at the Library room on the first Tuesday of May, 1869, and every year thereafter, and shall, under the presidency and superintendence of the President of the School Board, elect by ballot seven persons to act as managers for the ensuing year. Any vacancies created by resignation, death or otherwise, shall be filled as speedily as possible in the manner above indicated. The Board of Managers thus elected and appointed shall have such powers only, and shall perform such duties, as shall be delegated to or imposed upon them, from time to time, by said party of the second part; and the powers thus delegated and duties imposed upon the Board of Managers may be changed or modified by said party of the second part at its option, from time to time, in the same manner as the rules established for the government of the said Board of Public Schools are changed.

Fifthly. The terms and conditions of this agreement may be altered, modified, or abrogated, in whole or in part, by the consent of said party of the second part, and of the majority of all persons who, at the time of such proposed change, shall be entitled to the use of said library for life.

Sixthly. In case the said party of the second part shall fail to comply with the terms and conditions of this agreement, said party of the first part, or any person or persons interested in the performance of this agreement, may make complaint of such failure before any court of competent jurisdiction; and if said party of the second part, being duly summoned and heard in the premises, shall be adjudged to have violated this agreement, and shall not conform to the same in such manner and within such time as the court may, by its judgment or decree, direct, then and in such case the library hereby conveyed, and the additions made thereto, shall revert to and become the property of such persons as shall be entitled to the use of the same at the time of such reversion, and shall organize themselves into a corporation under the laws of this State for the purpose of maintaining said library.

In witness whereof, the Board of Trustees of the Public School Library Society of St. Louis, under authority delegated to them by the said society, party of the first part hereto, and the President of the said Board of Public Schools, on behalf of the said party of the second part, have hereunto set their hands, and caused to be affixed the corporate seals of said corporations, in the city of St. Louis and State of Missouri, this seventeenth (17th) day of April, in the year of our Lord, one thousand eight hundred and sixty-nine (1869).

Maintenance and extension of library — “This Board has full power and authority under its charter and the general school laws of the State, as well as under and by virtue of the act of 1874 (Laws Mo. 1874, p. 383), to expend the money of the Board in the maintenance or extension of the Public School Library.” Atty’s Opinion, III. Off. Proc. 157.

Branch libraries — Dues — The following amendment to section VI. of the Rules and Regulations governing the Library, was submitted to the Attorney for his opinion as to its validity: —

“Any incorporated library association or other incorporated association formed for similar purposes, may, at the discretion of the Board of Managers become entitled to all privileges of the library, subject to its rules and regulations, by taking out not less than fifty (50) annual memberships, paying for the same the sum of two dollars (\$2) per annum in advance for each membership; *provided*, such associations assume all the expenses of administration and become responsible for the safe return and proper keeping of the books; and also *provided*, That the location of such association is approved by the Board of Managers as suitable for a branch library.”

The attorney stated that he could see no legal objection to the proposed amendment, nor any valid legal objection to a charge being laid by any branch association on its members greater than the annual rate paid by such association for such member. Atty’s Opinion, IV. Off. Proc. 277.

Change of name — The School Board has the legal right to change the name of the Public School Library. Atty’s Opinion, V. Off. Proc. 281.

Effect of charter of Public School Library Society — The limitation established by the second section of the act to incorporate a public school library society in the city of St. Louis, approved February 2, 1865, fixes the amount to be paid for life membership at twelve dollars, is binding on the School Board and can not be increased by any action on its part. Atty’s Opinion, III. Off. Proc. 55.

Library fees and dues — The cost or price of the privileges of the Public School Library is a matter exclusively within the control of the School Board, free from the restrictions contained in the charter of the Public School Library Society. Atty’s Opinion, IV. Off. Proc. 489.

Non-resident members — The School Board may increase the cost of library privileges for non-residents of the city. Atty’s Opinion, IV. Off. Proc. 505.

Life members. — The Board of Managers of the Public School Library have no right or power to make any assessment upon the life members of the Public School Library. Atty’s Opinion, III. Off. Proc. 148.

Contract to expend certain sums — “By the contract with the Washington University the Board is under obligation to expend some part of the \$6,000 every year on the library. What amount shall be so expended

is not designated, and is left, so far as that contract is concerned, to the discretion of the Board.

But there is another contract that affects this question, and which does fix a definite amount to be expended annually on the library.

On the 17th day of April, 1869, the Public School Library Society of St. Louis transferred to this Board all its books and other property. The deed recites that this Board, in consideration of said transfer, agreed, among other things, to expend not less than three thousand (\$3,000) dollars a year on the library. The library thus transferred was by the terms of the deed placed under the control of sixteen (16) agents of the Board, nine of whom were to be selected by the Board.

This deed was, as shown by the minutes of the Board, drawn under the suggestion of this Board, and in accordance with the opinion of the then attorney of the Board. The Board has since that time taken control of the Library, has appointed the managers provided by the deed, and has in every way recognized the validity of the transfer. I think, therefore, that although the deed was not executed on the part of the Board with the usual formalities, it would now be estopped from disputing the validity of the contract. And as all doubt of its power to appropriate money to such purposes was set at rest by the act of 1874 (Acts 1874, p. 383), I am of opinion the contract is binding.

My conclusion is that the Board ought to continue to expend for the increase and maintenance of the Public School Library at least the sum of three thousand (\$3,000) dollars annually, and that proper steps ought to be taken to secure the amount due it from Washington University." Atty's Opinion, III. Off. Proc. 185.

ST. LOUIS SCHOOL-LAND DIVISION — NET PROCEEDS OF SECTION 16, TOWNSHIP 45 RANGE 7.

AN ACT providing for the division of the net proceeds of the sales of section sixteen, in township forty-five, north, range seven, east, in the county of St. Louis, and to repeal an act entitled, "An act to provide for the division of the net proceeds of the sales of section sixteen in township forty-five, north, range seven, east, in the county of St. Louis," approved February 28, 1874. [Laws Mo. 1875, p. 419.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Appropriation of funds — That one-fourth of the net proceeds of the sales, which have heretofore been made, and which may hereafter be made, of section sixteen,

in township forty-five north, range seven east, in the county of Saint Louis, shall be applied, according to the number of children between the ages of five and twenty years, within that portion of said township which is not included within the limits of the city of St. Louis, for school purposes in said township.

SEC. 2. County court may loan — All that portion of said proceeds required by this act to be applied within that portion of said township, which is not included within said city, together with all interest thereon, shall be held, loaned and managed by the county court of St. Louis county and the officers thereof, in the same manner and under the same rules and regulations that the general laws of the state require the net proceeds of the sales of the other school lands in this state to be held, loaned and managed and the interest arising therefrom shall be applied to school purposes, according to the number of children between the ages of five and twenty years, in that portion of said township which is not included within the said city, in such manner as the trustees of the respective school districts therein shall deem best for the public good.

SEC. 3. Application of funds — That the proceeds of the sale of said section sixteen in township forty-five north, range seven east, together with the interest thereon, which may now be in the possession of the county treasurer of St. Louis county, and to be applied for school purposes, under the provisions of this act, and authorized to be divided under an act entitled an act to provide for the division of the net proceeds of the sales of section sixteen, in township forty-five north, range seven east, in the county of St. Louis, approved February 28, 1874, shall be applied in accordance with sections one and two of this act.

SEC. 4. Repealing former act — That the act entitled an act to provide for the division of the net proceeds of the sales of section sixteen, in township forty-five north, range

seven east, in the county of St. Louis, approved February 28, 1874, is hereby repealed.

SEC. 5. Inconsistent acts repealed — All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 6. Act to take effect, when — This act to take effect and be in force from and after its passage.

Approved March 27, 1875.

EDUCATION OF COLORED CHILDREN.

AN ACT to amend an act entitled "An act providing for the education of colored children in the City of St. Louis," approved January 14, 1865. [Laws Mo. 1875, p. 349.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Board shall make provision for educating colored children and maintain high school — The above-entitled act is hereby amended so as to read as follows: Section 1. The board of president and directors of the St. Louis public schools shall make suitable provision for the education of the colored children of said city; and for the purpose of educating the colored children of said city, in the advanced studies, the said board shall provide for and maintain a high school, and shall, if necessary, erect a building for that purpose.

SEC. 2. Department of normal instruction — For the purpose of training teachers, the said board of president and directors of the St. Louis public schools are hereby authorized to establish and maintain, in the high school provided for in the foregoing section, a department of normal instruction.

SEC. 3. Inconsistent acts repealed — All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 4. Act to take effect, when — This act to take effect and be in force from and after its passage.

Approved March 17, 1875.

In an opinion presented to the Board September 14, 1875, the Attorney says: —

“The constitution provides, Art. 9, Sec. 2: ‘Separate schools may be established for children of African descent,’ making the establishment of *separate* schools for colored children mandatory, according to the accepted legal construction of the word ‘may’ in such cases.” He then states in substance that under an act of January 14, 1865, and the above act of March, 1875 [which repeals the act of January 14, 1865], and the constitutional provision above quoted, it “appears that the law imposes upon this Board the obligation to provide for and maintain a separate high school for colored children in this city, and that a total discontinuance of such school is not within the legal power of the Board. That, on the other hand, while the colored people may enforce the maintenance of such separate high school by appropriate legal proceedings, the Board cannot be forced to admit colored children into the Central or Branch High School in any event.” Atty’s Opinion, II. Off. Proc. 59.

See State constitution, article XI., section 3, on page 188 of this compilation. See also Acts approved March 16, 1883 [Laws Mo. 1883, p. 188], and Act approved April 2, 1883 [Laws Mo. 1883, p. 187], on pages 149, 150 of this compilation.

APPLICATION OF SCHOOL FUND.

AN ACT to amend an act entitled “An act to provide for the support of public schools, and to revise and amend the laws relating thereto, and to repeal certain acts and parts of acts,” approved March 19, 1870, approved March 26, 1874. [Laws Mo. 1877, p. 406.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Investment of fund—Section eighty-four of the act of which this is amendatory, is hereby amended so as to read as follows: Section 84. Whenever there shall be in the treasury, or elsewhere, subject to the order of the Treasurer, any money belonging to the capital of the public-school funds, the State Auditor shall make report thereof to the State Board of Education, who shall direct the investment of the same in bonds of the United States, or bonds of the State of Missouri. That portion of the income and revenue to be distributed for the support of the public

schools, shall be payable on the warrant of the Auditor in favor of the treasurers of the several counties in each year, immediately after the apportionment of such moneys shall have been made and filed: *Provided*, That such portion of said income and revenue as falls to the share of the county of St. Louis, as formerly constituted, shall, in the year 1877, be payable on the warrant of the Auditor in favor of and to the Board of President and Directors of St. Louis Public Schools, and shall be apportioned at once by said board, in conjunction with the county court of St. Louis county, as now constituted, among the city and school districts in the county, according to the enumeration had of children of schools ages resident therein, respectively. And in and after the year 1877 the Board of President and Directors of the St. Louis Public Schools, shall return the annual enumeration made by it of children of school age, resident within said city, to the State Superintendent of Public Schools, and it shall be the duty of the State Superintendent of Public Schools to apportion to said city, its share of the annual income of the public school funds upon such enumeration and return, and certify the same to the State Auditor, and the State Auditor shall annually, immediately after such apportionment has been made and filed, draw his warrant for its share thus apportioned, in favor of the Board of President and Directors of the St. Louis Public Schools on the State Treasurer.

SEC. 2. Emergency clause.—An emergency having arisen calling for immediate relief on the subject mentioned in this act, it is hereby provided that this act shall take effect and be in force from and after its passage.

Approved April 24, 1877.

VESTING LANDS ACCEPTED BY STATE IN THE ST. LOUIS BOARD
OF PUBLIC SCHOOLS.

AN ACT in relation to the title to certain school lands in township 45, north, range 7, east of the fifth principal meridian. [Laws Mo. 1879, p. 197.]

WHEREAS, a notice was published in the St. Louis Globe-Democrat, for at least thirty days prior to the 3d day of February, 1879, as follows, to-wit: — Notice of intention to apply for a local law. Notice is hereby given that numerous citizens of the city of St. Louis, State of Missouri, intend to apply to the General Assembly of said State, at as early a date as practicable after the 3d day of February, 1879, for the passage of a local or special law, the object of which law is to pass to the board of president and directors of the St. Louis public schools, the title of the State to the lands situated in township 45, north of range 7 east, held by the State for the use of schools, and which were granted to the State for such use by the act of Congress of June 15th, 1864. Thomas Richeson, President of the Board, etc., St. Louis Public Schools; Milton H. Wash, Secretary.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. **Title vested in School Board** — That all the right, title and interest of the State of Missouri, in and to all lots, tracts, pieces and parcels of land, situate, lying and being in township forty-five north of the base line in range seven, east of the fifth principal meridian in the State of Missouri, which were acquired by said State under and by virtue of an act of Congress, approved June 15th, 1864, entitled “An act concerning school lands in township 45 north, range 7 east, in the State of Missouri,” be and the same are hereby granted and conveyed to and fully vested

in the board of president and directors of the St. Louis public schools, for the use and support of public schools in said township.

Approved May 12th, 1879.

See Act of Congress approved June 15, 1864, [13 U. S. Stats. at Large, p. 132], granting these lands to the State of Missouri, on page 241 of this compilation; also Act of Legislature approved January 14, 1865, [Laws Mo. 1864-5, p. 336], accepting them on page 33 of this compilation.

SCHOOL LANDS — SIXTEENTH SECTIONS.

AN ACT in relation to the title to the sixteenth section in certain townships. [Laws Mo. 1879, p. 199.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Sixteenth section — Lands vested, when — Whenever any township, in which the sixteenth section granted by the United States to the State of Missouri for the use of schools, or any part thereof, remains undisposed of, lies wholly within the limits of any incorporated city, the title to the sixteenth section of such township, or such portion thereof as now remains undisposed of, shall be and the same is hereby vested in the corporation having by law the management of the public schools in such city, by whatever name or title such corporation may be known or designated: *Provided*, that if, by any law of the State now in force, commissioners have been appointed to take charge and dispose of any such sixteenth section, no action or proceeding commenced by such commissioners, for the recovery of the same, or any part thereof, and no contract made with attorneys for the prosecution of such actions or proceedings, shall be in anywise affected by the change of title herein provided for, but all such actions and proceedings shall continue in the name of, and be carried to a

final determination by such commissioners, and all the rights, title, benefits and interest acquired by said commissioners, or the State of Missouri, by virtue of any such action or proceeding, shall, upon the determination thereof, vest in such corporation, and such corporation shall thereafter have full charge and control of the property and funds so acquired.

SEC. 2. Report of commissioners — Compensation, how determined — Said commissioners shall make report of their actions, proceedings and expenditures to such corporation, and shall be entitled to a reasonable compensation for their services, to be fixed by three arbitrators, one of whom shall be chosen by such corporation, one by such commissioners, and the third by the two chosen by the parties. Said arbitrators, so selected, shall hear the evidence and award such compensation as they may think such commissioners are justly and equitably entitled to, to be paid by such corporation; and such award shall be final and binding on all parties. All compromises agreed upon by such commissioners with any adverse claimant to the lands hereinbefore mentioned, or any portion thereof, shall be submitted to said corporation for approval, and, if approved by said corporation, deed shall be executed by such corporation to such adverse claimant.

Approved May 16th, 1879.

See Act providing for appointment of commissioners for disposal of sixteenth section, on page 30 of this compilation.

Explanatory Statement.—For a statement explanatory of the above act and a resume of the proceedings of the commissioners, see "SIXTEENTH SECTION COMMISSIONERS," III. Off. Proc. 203.

Litigation with Commissioner—On July 22, 1880, Wm. Glasgow, Jr., sole surviving Commissioner of the sixteenth section brought suit in the St. Louis Circuit Court, and an alternative writ of *mandamus* was issued requiring the School Board to proceed with the arbitration provided for in section 2 of the above act. Atty's Report, IV. Off. Proc. 6.

A motion to quash the alternative writ, on the ground that the relator

had a complete remedy at law to obtain such compensation as he was entitled to; and that the Legislature had no power to deprive the Board of the ordinary methods of adjusting its obligations, which was filed by the Attorney for the Board, was sustained. Atty's Report, IV. Off. Proc. 33, 84.

The Board and the Commissioner subsequently agreed upon the amount of compensation to be allowed him and his suit was dismissed. V. Off. Proc., pp. 53, 56.

Compromises by Commissioner—A report of certain compromises offered by the Commissioner; and a statement by the Ways and Means Committee respecting the sixteenth section litigation was made to the Board January 8, 1884. See V. Off. Proc. 96, 97.

Reversal of Glasgow v. Baker—The Commissioner reported the reversal in the State Supreme Court of the case of Glasgow v. Baker, and that he had taken an appeal to the Supreme Court of the United States. The Board authorized that a bond for costs be given in its behalf. V. Off. Proc. 377.

Litigation with Commissioner—The Attorney of the Board was instructed to take such legal means as he might think best to prevent the sale of sixteenth section land advertised by the Commissioner without consent of the Board. V. Off. Proc. 568.

The Attorney reports that he has learned that the Commissioner has in his hands \$5,000 in cash and \$2,000 in notes, the proceeds of compromises, and that he will make demand for same. V. Off. Proc. 592.

PERMANENT FUND.

AN ACT to preserve the public school funds of cities and towns of this State. [Laws Mo. 1879, p. 205.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Permanent school fund—All school lands heretofore granted, by the General Assembly, to any city or town, or to any incorporated board for the benefit of any city or town, or the inhabitants thereof, for the purposes of public education, including all lands set apart or granted by the general government of the United States to this State, and lying within the limits of such city or

town, for support of schools, and granted to or placed in charge of such city, town or incorporated board as aforesaid, shall constitute the permanent school fund of such city or town, only the income of which shall be used for the support of the public schools in such city or town.

SEC. 2. Right to sell lands not affected, provided, etc.— Nothing herein contained shall affect the existing right of any city or town or incorporated board to dispose of such lands: *Provided*, that the proceeds be duly invested and only the income thereof used for the support of schools.

Approved May 16th, 1879.

See Art. XIV., section 1, of the State Constitution in reference to the primary disposal of the soil on page 194 of this compilation.

Effect of act—Before the passage of the above act it seems that, that part of the real estate which, prior to the adoption of the Scheme and Charter, was held by the Board might have been disposed of as the Board saw fit; but that the money or property derived from the county school capital was to be securely invested, and the income thereof only used. See Atty's Opinion, III. Off. Proc. 180.

In reference to the act above set forth, the Attorney of the Board states: "In brief, then, the effect of the law is this: All the lands which have been derived from the State or the United States, and which shall remain undisposed of on the 18th day of August, 1879 [the date when the law went into effect] must hereafter be retained intact, and if any part thereof shall be hereafter sold the proceeds must be invested in an income-bearing investment and the principal maintained intact. The income from such lands, or from the invested proceeds thereof, may be used for the current expenses of the Board. All other property of the Board, except that above mentioned in this paragraph, may, so far as the law in question is concerned, be used for the current expenses of the Board." Atty's Opinion, III. Off. Proc. 265.

Action of the Board respecting the act—A motion to memorialize the General Assembly to amend the above law so that the proceeds of sales might be invested in real estate for school purposes and in the erection of school houses thereon was referred to the Legislative Committee. IV. Off. Proc. 93.

The report of the Legislative Committee recommended that no action by the Board be taken in reference to amending the act. The report was

not adopted. But the motion to memorialize the General Assembly was adopted with an amendment. IV. Off. Proc. 98.

January 13, 1885, a citizens' memorial, in advocacy of new High School and suggesting amendment to Permanent Fund law allowing the lands in the fund to be sold and proceeds to be invested in other property for school sites and in school buildings was presented to the Board. V. Off. Proc. 283, 307.

Remonstrance by citizens on same subject. V. Off. Proc. 307.

Classification of Permanent Fund and other realty belonging to the Board by the Attorney. V. Off. Proc. 543.

Investment of funds.—In reference to an act of the General Assembly entitled "An act to preserve the Public School funds of cities and towns of this State, approved May 16, 1879, the Attorney of the Board says: "The question remains as to what is meant by the term 'invested.' No particular method of investment is pointed out, either in this act or any other, in which this Board shall invest its funds. It seems to be left, therefore, discretionary with the Board. It is clear, however, that, whatever form of investment is selected, it will be such as will leave the original fund unimpaired, so far as that can be predicated of any investment; and the act seems to contemplate an income-bearing investment." Atty's Opinion, III. Off. Proc. 266.

Coinciding with and quoting the language of his predecessor, above given, the Attorney of the Board states that his opinions is: "That there is no limitation of the power of investment, so long as the Fund in the best judgment of the Board is not impaired thereby and merely the income used for the support of the schools." Atty's Opinion, V. Off. Proc. 145.

Special tax bills.—In reference to a resolution which recommended that all special tax bills assessed against real estate belonging to the permanent fund when ordered paid should be paid out of and charged to that fund, the Attorney having been called on for an opinion, thus expresses his views: "The theory upon which the law justifies the assessment of special tax bills against real estate, is that the work done or property taken for which the assessment is made confers a permanent improvement upon the property against which the tax is assessed. This being the theory underlying the laws regarding special tax bills, it must be assumed that the assessment of a valid special tax bill against realty imparts a permanent improvement of such real estate to the extent of the amount of the bill. The payment of such a special tax bill would then, in my opinion, be deemed an investment in a permanent improvement upon the realty, and when such real estate belongs to the Permanent Fund, the amount to be paid may be taken out and charged to said Fund." Atty's Opinion, V. Off. Proc. 145.

ENUMERATION OF CHILDREN.

AN ACT to amend Article 1 of Chapter 150 of the Revised Statutes, entitled "Of Schools," by striking out Section 7049, and substituting a new section in lieu thereof, to be numbered Section 7049. [Laws Mo. 1881, p. 203.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Enumeration of children, time of — Duty of directors and clerk—That Section 7049 of the Revised Statutes of 1879 be and the same is hereby repealed, and the following substituted therefor: Section 7049. It shall be the duty of the directors of each district to take or cause to be taken and forwarded to the clerk of the county court and to the county commissioner, and it shall be the duty of each school board having special charge of public schools of any city to take or cause to be taken between the 31st day of May and 15th day of June of each year, an enumeration of the names of the white and colored youths, noting them therein separately, between the ages of six and twenty years, resident in the district or city respectively, designating male and female. The directors of each district shall also take, or cause to be taken, an alphabetical list of the resident tax-payers of said district. It shall be the duty of the clerk to record the same in the record of the district. The school board of any city having more than 50,000 inhabitants may relieve itself of the duty aforesaid four times in every period of five years, by passing a resolution each year adopting the last enumeration therein made as its enumeration of persons of school age in said city for such year, and thereupon such last enumeration shall be deemed returned and taken as its enumeration for such year for all purposes under this chapter.

Approved March 26, 1881.

DIRECTORS, NUMBER OF — QUALIFICATIONS OF VOTERS —
ELECTION DISTRICTS.

AN ACT fixing the number of Directors of Public School Boards and prescribing the qualifications of electors therefor. [Laws Mo. 1881, p. 207.]

Be it enacted by the General Assembly of the State of Missouri, as follows :

SECTION 1. Number of directors to each ward — That in all cities in this State where the public schools and school property are under the control and management of a corporation created and existing under and by virtue of a special charter, the number of the directors of said corporation, by whatever name it may be known, shall not exceed the number of wards in the city in which it is located : *Provided*, that if the number of wards in any such city shall not exceed twelve, then the number of directors shall not be more than double the number of wards in such city.

SEC. 2. Qualifications of voters — At all elections for directors of the corporation in this act mentioned, all persons shall be entitled to vote, who are, under the laws in force for the time being, qualified voters for city officers in the city where such corporation is located : *Provided*, that the election districts referred to in any laws prescribing the qualifications of such electors, shall be construed to mean such districts as the respective boards may establish for each election, when such boards have power under their respective charters to prescribe the manner, time and place of conducting such elections : *And provided, further*, that this act shall not be deemed to impair in any way the power of any board to prescribe the time, place and manner of conducting the elections of its members, whenever such right is granted to any board in its charter.

SEC. 3. Inconsistent acts repealed—All acts and parts of acts inconsistent with the foregoing are hereby repealed.

Approved March 17, 1881.

See Section 3 of School Board charter on page 11 of this compilation.

REGISTRATION OF VOTERS.

AN ACT to provide for the registration of all voters in cities having a population of more than one hundred thousand inhabitants, and to govern elections in such cities, and to create the office of "recorder of voters," and to repeal an act entitled "An act to provide for the registration of all voters in cities having a population of more than one hundred thousand inhabitants, and to govern elections in such cities, and to repeal an act entitled an act to provide for the exercise of the right of voting by persons who have failed to register, approved March 30, 1877, and all acts and parts of acts conflicting therewith," approved March 21, 1881. [Laws Mo. 1883, p. 38], contains among others the following sections:

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. In what cities registration authorized—There shall be a registration of all the qualified voters in cities having a population of an hundred thousand inhabitants or more, which registration shall be had under the provisions of this act and not otherwise.

SEC. 2. Qualification of voters—Every male citizen of the United States, and every person of foreign birth who may have declared his intention to become a citizen of the United States, according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, who has resided in this state one year next preceding the election at which he offers to vote, and during the last sixty days of that time shall have resided in the city, and during the last twenty days of that time in the precinct at which he offers to vote, who has

not been convicted of bribery, perjury or other infamous crime, not directly interested in any bet or wager depending upon the result of the election, nor serving at the time in the regular army or navy of the United States, shall be entitled to vote at such election for all officers, state or municipal, made elective by the people, or at any other election held in pursuance of the laws of this state, but he shall not vote elsewhere but in the election precinct where his name is registered and whereof he is registered as a resident.

* * * * *

SEC. 7. Illegal registration or voting — Punishment —

Whoever shall wilfully register as belonging to any other election precinct than the one in which he resides at the time of his registration, or shall register under an assumed name or names other than his own, or who shall wilfully register in more than one election precinct, or as living at a place or the number of a street where he does not live, or shall vote under another name than his own, or vote in a precinct where he does not at the time reside, or shall wilfully or illegally procure his name to be placed upon the registry list of voters when not entitled thereto, or vote or offer to vote when not entitled thereto at any election, state or municipal, shall be deemed guilty of a felony, and upon conviction thereof shall be imprisoned in the penitentiary for a term not exceeding five years.

* * * * *

SEC. 24. Elections to be conducted as required by law — All elections in such city shall be conducted in all respects as provided in this act, and subject to all the provisions of the Revised Statutes, entitled “ Of elections,” so far as the same do not conflict with this act, and to an act entitled “ An act to provide for the punishment of persons for giving or receiving any money or other valuable thing

to be used for electioneering purposes," approved March 18th, 1874.

* * * * *

Approved March 31, 1883.

TEACHERS' CERTIFICATES.

AN ACT exempting schools operated under special charters from the provisions of section 7076 of chapter 150 of the Revised Statutes of Missouri. [Laws Mo. 1885, p. 250.]

Be it enacted by the General Assembly of the State of Missouri, as follows :

SECTION 1. Certain schools exempted — All schools in this state operated under special charters are hereby exempted from the provisions of section 7076, chapter 150 of the Revised Statutes of Missouri, entitled " of schools."

Approved March 24, 1885.

The following is the section above referred to: —

SECTION 7076. Teachers — Certificate before employment — No teacher shall be employed in any school supported by the public funds, or any part thereof, until he has received a certificate of qualification therefor, signed by the commissioner of the county where he or she intends to teach, except those holding certificates from the state superintendent, and then in force.

RE-ESTABLISHING WARD LIMITS.

AN ACT to secure equal representation in all cities and towns in this state. [Laws Mo. 1885, p. 72.]

Be it enacted by the General Assembly of the State of Missouri, as follows :

SECTION 1. Wards, how laid out— In all cities and towns in this state where the same are laid out in wards for the election of members of the municipal assembly, by whatever name such assembly may be called, and for the elec-

tion of school directors, the wards shall be laid out by such assembly, so that each ward shall contain, as near as practicable, the same number of registered voters.

SEC. 2. Proceedings when municipal assembly fails to re-establish ward limits — In case of failure on the part of such body to establish and define ward limits, as herein provided, within twelve months after the passage of this act, any judge of the circuit court, if in session, whose territorial jurisdiction extends over such city or town, shall, on the petition of ten citizens of such city or town, appoint a commission to consist of three persons, whose duty it shall be to establish corrected ward limits, which correction shall be made as near as practicable, so as to equalize the number of registered votes in each ward, and in such correction they shall not be governed or controlled by any old ward lines, except so far as the same may secure the purposes of this act.

SEC. 3. Petition to contain what — **When not to be entertained** — Such petition shall not be entertained by any such judge or court, unless it appear thereby that the ward lines of such city or town have not been changed within the preceding five years. Said petition shall be verified by affidavit, and shall allege that the number of voters in the various wards are not as nearly equal as it is practical to make them.

SEC. 4. Commissioners to take oath — **Compensation.** The said commissioners shall take an oath faithfully to discharge the duties assigned to them, and they shall receive a reasonable compensation for their services, to be allowed by the judge or court appointing them, and to be paid out of the treasury of such city or town, on the order of such judge or court.

SEC. 5. Commissioners to file report — **Proceedings on** — Said commissioners shall file a report of their work within ninety (90) days from date of appointment, with the

judge or court appointing them, and a copy thereof with the mayor or other executive officer of such city or town; and when said report shall have been approved by such court in general term, the ward lines so established and defined by said commissioners shall be the legal boundaries of such wards for all purposes for the succeeding five years, and until changed by the proper authorities.

SEC. 6. Recorder of Voters to render assistance — The recorder of voters of such city or town shall, without compensation, render such assistance as said commissioners shall require in the discharge of their duties.

Approved March 31, 1885.

See Section 4, Article 1, of City Charter, on page 202 of this compilation and in note below.

See resolution in reference to above act "REDISTRICTING OF WARD BOUNDARIES." V. Off. Proc. 340.

The Charter of the city of St. Louis was adopted in 1876. In it was a provision for the purpose of re-districting the wards by the Municipal Assembly every five years. Nearly a decade elapsed and the Assembly not having taken any steps in the matter, the Legislature passed the above law. The text of the section in the City Charter referred to is as follows:

"**SEC. 4. Correction of ward limits** — The municipal assembly shall, every five years after the adoption of this charter, establish corrected ward limits, which correction shall be made as near as practicable so as to equalize the number of registered voters in each ward; but in making the division the present eastern and western boundaries shall be retained, so that Rosatti, Twelfth and Eleventh streets, Jefferson avenue and the present city limits shall remain division lines."

It will be noticed that the chief difference between the Charter provision and the Act of the Legislature is that the former seeks to retain certain streets and the present city limits as ward boundaries in the redistricting while the second section of the Act specially provides that all old lines may be ignored.

FROM THE

REVISED STATUTES

OF THE

STATE OF MISSOURI

OF 1879.

APPROPRIATION AND VALUATION OF LANDS TAKEN FOR TELEGRAPH, TELEPHONE, GRAVEL AND PLANK OR RAILROAD PURPOSES.

[I. Mo. Rev. Stat. 1879, Ch. 21, Art. 6, p. 160.]

See Sec. 21, Art. II., State Constitution and note thereto in reference to taking private property for public use, and § 7051 Revised Statutes of 1879 [II. Mo. Rev. Stat., 1879, p. 1388] on pages 119, 177 of this compilation.

SEC. 892. Lands may be condemned, when — petition, etc. — In case lands or other property are sought to be appropriated by any road, railroad, telephone, telegraph or other corporation created under the laws of this state, for public use, and such corporation and the owners cannot agree upon the proper compensation to be paid, or in case the owner is incapable of contracting, be unknown, or be a non-resident of the state, such corporation may apply to the circuit court of the county where said land or any part thereof lies, or the judge thereof in vacation, by petition, setting

forth the general directions in which it is desired to construct their road, railroad, telephone or telegraph line over such lands, a description of the real estate or other property which the company seeks to acquire, the names of the owners thereof, if known, or if unknown, a pertinent description of the property whose owners are unknown, and praying the appointment of three disinterested freeholders as commissioners, or by a jury, to assess the damages which such owners may severally sustain in consequence of the establishment, erection and maintenance of such road, railroad, telephone or telegraph line over such lands; to which petition the owners of all such parcels as lie within the county or circuit shall be made parties defendant, by name, if the names are known, and by the description of the unknown owners of the lands therein described, if their names are unknown. If the proceedings seek to affect the lands of persons under guardianship, the guardians must be made parties defendant; if the land of married women, their husbands must be made parties defendant. If the present owner of any land to be affected has a less estate than a fee, the person having the next vested estate in remainder may, at the option of the petitioners, be made party defendant; but if such remainder men are not made parties, their interest shall not be bound by the proceeding. It shall not be necessary to make any persons party defendant in respect to their ownership, unless they are either in actual possession of the premises to be affected, claiming title or have a title to the premises, appearing of record upon the proper records of the county.

SEC. 893. Summons, when to issue, how served — Publication, when — Upon the filing of the petition, a summons shall be issued, giving such owner at least ten days notice of the time when said petition will be heard, which summons shall be served by the sheriff of the county, in the same manner as writs of summons are or may be, by law,

required to be served. If the name or residence of the owner be unknown, or if the owners, or any of them, do not reside within the state, notice of the time of hearing the petition, reciting the substance of the petition and the day fixed for the hearing thereof, shall be given by publication for three weeks, consecutively, prior to the time of hearing the petition, in a newspaper published in the county in which the proceedings are pending, if one is published in the county, or if no newspaper is published in the county, or the publisher shall refuse to publish the same, on tender of his usual charges for advertising, then by posting up said notice for three consecutive weeks at the door of the court house of the county wherein the lands or any portion of them lie.

SEC. 894. Appointment of commissioners — Duties of — The court, or judge thereof in vacation, on being satisfied that due notice of the pendency of the petition has been given, shall appoint three disinterested commissioners, who shall be freeholders, resident of the county in which the real estate, or a part thereof, is situated, to assess the damages which the owners may severally sustain by reason of such appropriation, who, after having viewed the property, shall forthwith return, under oath, such assessment of damages to the clerk of such court, setting forth the amount of damages; and should more than one owner be included in the petition, then the damages allowed each shall be stated separately, together with a specific description of the property for which such damages are assessed, and the clerk shall file said report and record the same in the order book of the court; and thereupon such company shall pay to the said clerk the amount thus assessed, for the party in whose favor such damages have been assessed; and on making such payment it shall be lawful for such company to hold the interest in the property so appropriated for the uses aforesaid; and, upon failure to pay the assessment afore-

said, the court may, upon motion and notice by the party entitled to such damages, enforce the payment of the same by execution, unless the said company shall, within ten days from the return of such assessment, elect to abandon the proposed appropriation of any parcel of land by an instrument in writing to that effect, to be filed with the clerk of said court, and entered on the minutes of the court, and as to so much is as thus abandoned the assessment of damages shall be void.

SEC. 895. Different owners may be joined in one petition — Any number of owners, residents in the same county or circuit, may be joined in one petition, and the damages to each shall be separately assessed by the same commissioners.

SEC. 896. Clerk to give notice of the filing of the report — **Report may be reviewed, when** — Upon the filing of such report of said commissioners, the clerk of the court wherein the same is filed, shall duly notify the party whose property is affected, of the filing thereof; and the report of said commissioners may be reviewed by the court in which the proceedings are had, on written exceptions, filed by either party in the clerk's office, within ten days after the service of the notice aforesaid; and the court shall make such order therein as right and justice may require, and may order a new appraisement, upon good cause shown. Such new appraisement shall, at the request of either party, be made by a jury, under the supervision of the court, as in ordinary cases of inquiry of damages; but, notwithstanding such exceptions, such company may proceed to erect said telephone or telegraph line, or construct said road or railroad; and any subsequent proceedings shall only affect the amount of compensation to be allowed. In all cases arising under the provisions of this article, the report of commissioners, when signed by a majority of them, shall be taken and considered as the report of all.

SEC. 897. Cost, by whom paid — The cost of the proceeding to appropriate the right of way shall be paid by the company seeking the appropriation, up to and including the filing and copying of the report of the commissioners; and the court, as to any costs made by subsequent litigation, may make such order as in its discretion may be deemed just. The court shall allow the commissioners a reasonable compensation for their services, which shall be taxed as costs in the proceeding.

SEC. 898. Shall not enter or appropriate dwelling house, etc. — No telephone, or telegraph company shall, by virtue of this article, be authorized to enter or appropriate any dwelling, barn, store, warehouse or similar building, erected for any agricultural, commercial or manufacturing purposes, or to erect poles so near thereto as materially to inconvenience the owner in their use or to occasion injury thereto.

SEC. 899. Proceedings when property held by corporation — In case the lands sought to be appropriated are held by any corporation the right to appropriate the same by a railroad, telephone or telegraph company shall be limited to such use as shall not materially interfere with the uses to which, by law, the corporation holding the same are authorized to put said lines. Where no agreement can be made between the parties, the mode of assessing the damages provided heretofore, as to private persons, shall be adopted; and if the lands to be appropriated lie in more than one county, an application may be made in any one county in which any of the lands lie, and the damages shall be assessed as to all the lands of the defendant corporation along the whole line, in one proceeding.

SEC. 900. Lands for depot purposes, how condemned, etc. — In case lands sought to be appropriated by any railroad company in this state for depot purposes, belong to private persons, and such company and the owner cannot

agree on the compensation to be paid, or in case the owner is incapable of contracting, be unknown or a non-resident of the state, such company may have such lands condemned in the manner that is provided in this article for assessing damages, which the owners of lands may severally sustain in consequence of the erection, establishment and maintenance of railroads over such lands; provided, that in no case shall more than ten acres of land in the county or more than six blocks in a town, village or city, be condemned under this article, at any one place, or for any one depot; and, provided further, that any other railroad company shall have the right to use said depot grounds for depot purposes, with the necessary buildings, turnouts, sidings, switches and other conveniences in furtherance of said purpose; and if the said two companies cannot agree upon the amount of compensation to be made therefor, or the points or manner of such use, the same shall be ascertained and determined by commissioners as proved by law for the condemnation of land for railroad purposes.

OFFENSES AGAINST PERSONS OF INDIVIDUALS.

[I. Mo. Rev. Stat. 1879, Ch. 24, Art. 2, p. 224.]

Construction of penal laws — “The ordinance, though penal, is nevertheless remedial in its character. A penal law may also be remedial, and a statute may be penal in one part and remedial in another. (Sedg. on Stat. and Const. Law, 41; 1 Wils. 126.) The point to be determined in giving practical application and construction to a statute, is to look at the mischief or defect which existed at the passage of the act, and see what provision the law-making power has made to afford a remedy; and it is in the province of the courts to so construe the law as to advance the remedy and suppress the mischief. (1 Blackst. Com. 87.) It is an established rule, applicable to the construction of all remedial statutes, that cases within the reason, though not within the letter of a statute shall be embraced by its provisions; and cases not within the reason, though within the letter, shall not be taken to be within the statute. (Mason v. Rogers, 4 Litt. 377; Phillips v. Pope, 10 B. Mon. 172.)” Wagner, J., in *State v. Canton*, 43 Mo. 48, 51.

See Act amending § 1274 of this chapter [Laws Mo. 1885, p. 139]; on page 168 of this compilation.

SEC. 1276. Fire arms not to be discharged near court house, school, etc. — Hereafter it shall be unlawful for any person in this state, except he be a sheriff or other officer in the discharge of official duty, to discharge or fire off any gun, pistol or fire arms of any description, in the immediate vicinity of any court house, church or building used for school or college purposes.

SEC. 1277. Punishment — Any person, guilty of a violation of the preceding section, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than five dollars nor more than twenty dollars, or by imprisonment in the county jail not exceeding twenty days.

SEC. 1278. Immediate vicinity defined — The term immediate vicinity, as used in this article, shall be construed, and held to mean a distance not exceeding two hundred yards.

OFFENSES AGAINST PUBLIC AND PRIVATE PROPERTY.

[I. Mo. Rev. Stat. 1879, Ch. 24, Art. 3, p. 226.]

SEC. 1287. Arson in third degree — Every person who shall willfully set fire to or burn any house, building, barn, stable, boat or vessel of another, or any office or depot, or railroad car of any railroad company, or any house of public worship, college, academy or school house, or building used as such, or any public building belonging to the United States or this state, or to any county, city, town or village, not the subject of arson in the first or second degree, shall, on conviction, be adjudged guilty of arson in the third degree.

The burning of a school-house may be arson in the first or second degree. See sections 1283, 1284, 1285. [I. Mo. Rev. Stat. 1879, p. 226.]

SEC. 1291. Punishment for arson — Every person who shall be convicted of any degree of arson shall be punished

by imprisonment, as follows: First, in the first degree, in the penitentiary not less than ten years; second, in the second degree, in the penitentiary not less than seven years; third, in the third degree, in the penitentiary not less than five years; fourth, in the fourth degree, in the penitentiary not more than five years, or by imprisonment in the county jail not less than six months.

SEC. 1326. Embezzlement by officer—If any officer, appointed or elected by virtue of the constitution of this state, or any law thereof, including as well all officers, agents and servants of incorporated cities and towns, or municipal townships or school districts, as of the state and counties thereof, shall convert to his own use, in any way whatever, or shall use by way of investment in any kind of property or merchandise, or shall make way with or secrete any portion of the public moneys, or any valuable security by him received for safe keeping, disbursement, transfer, or for any other purpose, or which may be in his possession, or over which he may have the supervision, care or control, by virtue of his office, agency or service, or under color or pretense thereof, every such officer, agent or servant, shall, upon conviction, be punished by imprisonment in the penitentiary not less than five years.

SEC. 1327. Officer loaning public money, how punished—No such officer, agent or servant shall loan out, with or without interest, any money or valuable security received by him, or which may be in his possession or keeping, or over which he may have supervision, care or control, by virtue of his office, agency or service, or under color or pretense thereof, and any such officer, agent or servant, so loaning such money or valuable security, on conviction thereof, shall be punished by imprisonment in the penitentiary not less than two years, or by a fine not less than five hundred dollars.

SEC. 1328. Officer receiving benefit from deposits—

If any such officer, agent or servant shall make any contract or agreement with any person or body corporate, by which such officer, agent or servant is to derive any, benefit or advantage from the deposit with such person or body corporate, of any moneys or valuable securities held by such officer, agent or servant such contract, shall, as to such officer, agent or servant, be utterly null and void; but the person or body corporate making such contract or agreement shall be liable to the state in an action for the recovery of all such benefit or advantage as would, by the terms of such contract or agreement, have accrued to such officer, agent or servant; and payment to the officer, agent or servant shall not protect the person or body corporate against the action brought by the state.

SEC. 1329. Violating preceding section — Punishment — Any such officer, agent or servant, who shall make any contract or agreement such as is described in the preceding section, or who shall receive any benefit or advantage for the deposit of any money or valuable security held by him as such officer, agent or servant, or over which he may have supervision, care or control by virtue of such office, agency or service, shall, upon conviction thereof, be punished by imprisonment in the penitentiary not less than two years, or by fine not less than five hundred dollars.

SEC. 1330. Claims corruptly allowed by county courts and other officers — Any member of the county court, common council or board of trustees, or officer or agent of any county, city, town, village, school township, school district, or other municipal corporation, who shall, in his official capacity, willfully or corruptly vote for, assent to or report in favor of, or allow or certify for allowance, any claim or demand, or any part thereof, against the county, city, town, village, school township, school district, or other municipal corporation, of which he is such officer or agent, or against the county court, common council or

board of trustees of which he is a member — such claim or demand, or part thereof, being for or on account of any contract or demand or service not authorized or made as provided or required by law — every such person so offending shall, on conviction, be punished by imprisonment in the penitentiary not more than five years, or by a fine of not less than one hundred nor more than five thousand dollars, or by imprisonment in the county jail not less than two nor more than twelve months, or by both such fine and imprisonment.

SEC. 1331. Fraudulent disbursement of money, etc. — If any member of any town or city council, or of any county court, or commission or body charged with the administration or management of the affairs of any county, or any executive officer or member of any executive department of any city, town or county in this state, or any member of any board or commission charged with the administration or management of any charity or fund of a public nature, by whatever name the same may be called, shall, knowingly, and without authority of law, vote for the appropriation, disposition or disbursement of any money or property belonging to any such city, town, county, charity or fund, or any subdivision of any such city, town or county, to any use or purpose other than the specific use or purpose for which the same was devised, appropriated and collected, or authorized to be collected by law; or shall knowingly aid, advise or promote the appropriation, disbursement or disposition of any such money or property, for any purpose not directed and warranted by law, and such illegal appropriation, disbursement or disposition be in fact effected, every person so offending against the provisions of this section shall be deemed and taken to have feloniously embezzled and converted to his own use such money or property; but if the same be not effected, then such person so voting, advising or promoting the said illegal appropri-

tion, disbursement or disposition of said money or property, as aforesaid, shall be deemed and taken to have feloniously attempted to embezzle and convert the same to his own use, and, upon conviction of either or any such offense, shall be punished by imprisonment in the penitentiary not exceeding five years, or in the county jail not less than six months, or by a fine not exceeding four fold the value of such money or property.

SEC. 1366. Trespass and waste upon school lands — If any person shall commit waste, trespass or other injury upon any school lands in the state, or upon any improvements thereon, he shall be deemed guilty of a misdemeanor. But all fines recovered under this section shall be paid into the county treasury for the use of the inhabitants of the township to which the lands or property injured belonged.

SEC. 1367. Injury of school houses — Every person who shall injure or destroy any building used as a school house or for other educational purposes, or any furniture, fixtures or apparatus thereto belonging, or who shall deface, mar or disfigure any such building, furniture or fixture, by writing, painting, cutting, or pasting thereon any likeness, figures, words or device, shall be deemed guilty of a misdemeanor.

Trespass on School Lands — Prosecutor unnecessary — A prosecutor is not necessary on an indictment for a trespass to school lands. A prosecutor is only necessary in cases of private property, and not in cases of trespass to the property of the State or the counties. *State v. Roberts*, 11 Mo. 510.

SEC. 1377. Punishment for misdemeanor — Every person who shall be convicted of a misdemeanor, as prohibited by this chapter, the punishment for which is not hereinbefore prescribed, shall be punished by imprisonment in a county jail not exceeding one year, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment.

See Act of March 15, 1883 [Laws Mo. 1883, p. 77], amending section 1378, on page 147 of this compilation.

OFFENSES BY PERSONS IN OFFICE OR AFFECTING PUBLIC
TRUSTS AND RIGHTS.

See note "*Construction of penal laws*," on page 74 of this compilation.

[I. Mo. Rev. Stat. 1879, Ch. 24, Art. 6, p. 256.]

SEC. 1468. Bribing public officers — Punishment —
Every person who shall, directly or indirectly, give any money, goods, right in action, or any other valuable consideration, gratuity or reward, or any promise, undertaking or security therefor, to any judge or justice of any court, justice of the peace, or to any member of the legislature, or to any officer or employe thereof, or to any other public officer of this state, or of any county or city, town or township thereof: First, with intent to influence his vote, opinion, judgment or decision on any question, matter, election, appointment, cause or proceeding, which may be then pending, or may by law be brought before him in his official capacity, or to induce him to neglect or omit the performance of any official duty, or to perform such duty with partiality or favor, or otherwise than is required by law; or, second, in consideration that any such officer or member of the legislature has given any vote, opinion, judgment or decision in any particular manner, or for any particular person, or upon any particular side, or more favorable to one side than the other, in any matter, question, election, cause or proceeding, or has omitted to perform any official act or duty, or has performed such act or duty with partiality or favor, or in anywise contrary to law, shall be deemed guilty of bribery, and be punished by imprisonment in the penitentiary for a term not exceeding seven years.

SEC. 1469. Officers accepting bribes — Punishment —
Every judge or justice of any court, justice of the peace, member of the legislature, or officer or employe thereof, and any other public officer of this state, or of any county

or city, town or township thereof, who shall, directly or indirectly, accept or receive any gift, consideration, gratuity or reward, or any promise or undertaking to make the same: First, under any agreement that his vote, opinion, judgment or decision shall be given for any particular person, or in any particular manner, or upon any particular side, or more favorable to one side than the other, in any question, election, matter, cause or proceeding which may be pending or be brought before him in his official capacity, or that he shall neglect or omit to perform any official duty, or perform the same with partiality or favor, or otherwise than according to law; or, second, in consideration that he has given his vote, opinion, judgment or decision for any particular person, or in any particular manner, or upon any particular side, or more favorably to one side than the other, in any question, election, matter, cause or proceeding, or has neglected or omitted to perform any official act or duty, or performed such act or duty with partiality or favor, or in anywise contrary to law, shall be deemed guilty of bribery, and punished as prescribed in the next preceding section.

SEC. 1470. Bribing officer to appoint to office, etc.— Every person who shall, directly or indirectly, give or engage to give any sum of money or other valuable consideration, gratuity or reward, to any officer: First, with intent to influence or induce such officer to give or procure for him or any other, by his act, interest, influence or other means whatever, any appointment, office or place of trust, or any preferment or emolument, or assist, by any means whatsoever, to procure the same; or, second, in consideration of any office or appointment, preferment or emolument, act, interest, or influence, or any aid or assistance in procuring or attempting to procure such appointment, office or place of trust, or any emoluments, shall, on conviction, be adjudged guilty of bribery, and punished by

imprisonment in the penitentiary for a term not exceeding seven years.

SEC. 1471. Officer accepting bribe to make appointments, etc. — Every officer who shall, directly or indirectly, accept or receive of another any sum of money, or other valuable consideration, gratuity or reward, or any promise or security thereof: First, upon any agreement to give or procure by his act, interest or influence, or other means, any appointment, office or place of trust, or any preferment or emolument, or to aid or assist in procuring the same for another person; or, second, in consideration of any office or appointment, place or preferment, or emolument, or any act, interest or influence, aid or assistance, by any means, in procuring or attempting to procure any such appointment, office, place of trust, preferment or emolument, shall, on conviction, be adjudged guilty of bribery, and punished as prescribed in the next preceding section.

SEC. 1472. Accepting office procured by bribery — Every person who shall take, accept, receive or obtain, directly or indirectly, any office, appointment or place of trust, preferment or emolument, by the act, influence, aid or assistance of another, upon any agreement or consideration mentioned in either of the four next preceding sections, and every person who shall take, accept or receive any aid or assistance in obtaining or attempting to obtain, or any promise or undertaking to procure such office, appointment, place of trust, preferment or emolument, for himself or another, shall be deemed guilty of bribery, and punished in the same manner as if he had received money upon a like agreement or consideration.

SEC. 1473. Attempting to bribe officer in cases mentioned in preceding sections — If any person shall, by any of the means mentioned in the preceding sections of this article, or otherwise, offer or attempt to bribe any officer or other person, in any of the cases hereinbefore men-

tioned, he shall, on conviction, be punished by imprisonment in the penitentiary for a period not exceeding five years, or by imprisonment in the county jail for a term not exceeding one year, and a fine not less than one thousand dollars.

SEC. 1474. Bribery to procure office — If any person shall, directly or indirectly, give or procure to be given, or engage to give any money, gift or reward, or any office, place or employment upon any engagement, contract or agreement, that the person to whom, or to whose use, or on whose behalf, such gift or promise shall be made, shall, by himself or any other, procure or endeavor to procure the election of any person to any office, at any election by the electors, or any public body, under the constitution or laws of this state, the person so offending shall, on conviction, be adjudged guilty of bribery, and punished by imprisonment in the penitentiary for a term not exceeding five years.

SEC. 1475. Accepting bribe to procure office — Every person who shall, by himself or another, to his use or on his behalf, accept or receive, any such money, gift or reward, office, place of employment, or any promise or security therefor, upon any such engagement, contract, or agreement, as specified in the preceding section, shall be adjudged guilty of bribery, and shall forfeit the full amount of such money, gift or reward, and shall moreover, be punished by imprisonment in the penitentiary for a term not exceeding five years.

SEC. 1476. Accepting bribe by voter — If any person who shall have, or claim to have, a right to vote in any election authorized to be held by the constitution or laws of this state, shall ask, receive or take any money or other reward, by way of gift, loan or other device, or agree or contract for any money, gift, office, employment, or other reward whatsoever, to give his vote, or refuse or forbear to give his vote, in any such election, the person so offending shall, on conviction, be adjudged guilty of a misdemeanor.

SEC. 1477. Offering bribe to voter — If any person, by himself or any person employed by him, shall, by any gift or reward, office or employment, or by any promise, agreement or security therefor, corrupt or procure, or attempt to corrupt or procure, any person who shall have or claim to have a right to vote at any election, to give or forbear to give his vote at such election, the person so offending shall, on conviction, be adjudged guilty of a misdemeanor.

SEC. 1478. Bidding for office — Any person, being a candidate for election to any office of honor, trust or profit in this state, who shall offer or promise to discharge the duties of such office for a less sum than the salary, fees or emoluments of said office, as fixed by the laws of the state, or who shall promise to pay back or donate to any public or private interest any portion of such salary, fees or emoluments, as an inducement to voters at such election, shall, on conviction thereof, be deemed guilty of a misdemeanor, and shall be fined in a sum of not less than fifty dollars nor more than five hundred dollars, or imprisonment in the county jail for a period of not less than ten days nor more than six months, or by both such fine and imprisonment, and shall, in addition, forfeit the office to which he may have been elected at such election.

SEC. 1479. Selling office — Every person holding or exercising any office or public trust under the constitution or laws of this state, who shall, for any reward or gratuity, or any valuable consideration, paid or agreed to be paid, directly or indirectly, grant, bargain or sell such office, or any deputation thereof, or grant the right or authority to discharge any of the duties thereof to another, shall, on conviction, be punished by imprisonment in the penitentiary not exceeding five years, or by imprisonment in a county jail not exceeding [one year, or by fine not exceeding] one thousand dollars, or by both such fine and imprisonment.

SEC. 1480. Buying office — Every person who shall give, or make any agreement to give, any money, property, right in action, or other gratuity or reward, in consideration of any such bargain, grant or deputation of an office, or any part thereof, shall, upon conviction, be punished as prescribed in the last preceding section.

SEC. 1481. Preceding sections construed — The two preceding sections shall not be construed to extend to the appointment of a deputy by any officer authorized by law to have a deputy, so that no gratuity or reward be paid or agreed to be paid for such deputation.

SEC. 1482. Grant of office void — Every grant of deputation of office made contrary to the foregoing provisions shall be void; but all official acts done before conviction under this law, by any deputy of an officer authorized to make such appointment, shall be valid.

SEC. 1483. Oppression in office — Every person exercising or holding any office or public trust, who shall be guilty of willful and malicious oppression, partiality, misconduct or abuse of authority, in his official capacity, or under color of his office, shall, on conviction, be deemed guilty of a misdemeanor.

SEC. 1484. Fraud in office — Every officer or public agent of this state, or of any county, who shall commit any fraud in his official capacity, or under color of his office, shall be adjudged guilty of a misdemeanor.

SEC. 1485. Conviction, effect of — Every person who shall be convicted of any of the offenses mentioned in the preceding sections of this article, shall be forever disqualified from holding any office of honor, trust or profit under the constitution and laws of this state, and from voting at any election; and every officer who shall be convicted of any official misdemeanor or misconduct in office, or of any offense which is by this or any other statute punishable by

disqualification to hold office, shall, in addition to the other punishment described for such offenses, forfeit his office.

See Act of March 26, 1881 [Laws Mo. 1881, p. 111], amending section 1486, on page 137 of this compilation.

SEC. 1487. Collecting illegal taxes — Every collector of the revenue who shall unlawfully collect taxes when none are due, or shall willfully and unlawfully exact or demand more than is due, shall, upon conviction, be adjudged guilty of a misdemeanor.

SEC. 1488. Punishment of misdemeanor in office — Every officer or person holding any trust or appointment, who shall be convicted of any willful misconduct or misdemeanor in office, or neglect to perform any duty enjoined on him by law, where no special provision is made for the punishment of such misdemeanor, misconduct or negligence, shall be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 1491. Usurping office — If any person shall take upon himself any office or public trust in this state, and exercise any power to do any act appertaining to such office or trust, without a lawful appointment or deputation he shall, upon conviction, be adjudged guilty of a misdemeanor.

SEC. 1493. Election frauds, illegal voting, etc. — Intimidating voters — If any person, by menaces, threats or force, or by any other unlawful means, either directly or indirectly, attempt to influence any qualified voter in giving his vote, or to deter him from giving the same, or disturb or hinder him in the free exercise of his right of suffrage, at any election held under the constitution or laws of this state, the person so offending shall, on conviction thereof, be adjudged guilty of a misdemeanor.

SEC. 1494. Defrauding voters — Any person who designedly gives a printed or written ticket to any qualified voter of this state, containing the written or printed names of persons for whom said voter does not design to vote, for the purpose of causing such voter to poll his vote contrary to his known wishes, shall, on conviction, be adjudged guilty of a misdemeanor.

SEC. 1495. Circulating fraudulent tickets — Any person who shall cause to be printed and circulated, or who shall circulate any false and fraudulent tickets, which upon their face appear to be designed as a fraud upon voters, shall, upon conviction, be deemed guilty of a misdemeanor.

SEC. 1496. Importing fraudulent voters — Any person who shall bring into this state any person or persons, resident in another state, with intent that such persons so imported shall vote at any election within this state, before they shall possess the requisite qualifications, shall, on conviction, be adjudged guilty of a misdemeanor.

SEC. 1497. Fraudulent voting — Every person who shall, at any election held in pursuance of the laws of this state, or of any city or other municipality thereof, vote more than once, either at the same or a different place, or shall knowingly cast more than one ballot, or shall vote at any such election knowing that he is not a qualified voter and is not entitled to vote, and every person who shall knowingly advise or procure any person to vote, who is not entitled to vote, or shall knowingly advise or procure any illegal vote to be cast at any such election, shall be deemed guilty of a felony, and upon conviction, shall be punished by imprisonment in the penitentiary not exceeding five years, or by imprisonment in the county jail not exceeding one year, or by a fine of not less than fifty dollars, or by both such fine and imprisonment.

SEC. 1498. Attempt to cast illegal vote — Every person who shall attempt to vote at any election held in pur-

suance of the laws of this state or in any city or other municipality thereof, knowing that he is not entitled to vote at such election, shall be deemed guilty of a misdemeanor.

SEC. 1499. Fraud by judges and clerks of election —
If any judge or clerk of any election authorized by law, or any other person shall willfully and knowingly receive and place in the ballot box, or aid, assist or assent to the placing in any ballot box any ballot, or paper purporting to be a ballot, which is not legally voted by a qualified voter at such election, or shall illegally, willfully and fraudulently abstract, or aid in, or assent to, the abstraction from any ballot box any legal ballot for the purpose of changing the lawful result of any election, or shall in any manner willfully influence or attempt to influence any person to do any of the acts aforesaid, or to omit to do any lawful act required of him in relation to any election, or shall in any manner illegally, willfully and fraudulently change or attempt to change, or induce any other person to change the true and lawful result of any election by any act to be done either before, at the time of, or after such election, by a wrong count of the ballots, by changing the true returns or making a false return thereof, or by changing the figures of the returns after they are made up either before or after the returns are duly made, or in any other manner except in pursuance of law or the order of a court, every person offending against any of the provisions of this section, shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding five years, or by imprisonment in the county jail not less than three months, and by a fine not less than one hundred dollars, or by both such fine and imprisonment, and shall also be forever prohibited from voting at any election and from holding any office or position of trust or emolument under authority of this state, or any department thereof, or of any county, city

or town therein, either by election or appointment, or as clerk or employe.

SEC. 1500. Fraud in casting up returns — Any person who may be authorized by law to receive, canvass or count the poll books, tally lists or election returns of any election authorized by law, who shall willfully and knowingly receive, canvass and count or assist therein, any poll books, tally lists or election returns which are fraudulent, forged, counterfeited, or shall falsely and fraudulently make an incorrect and false count of any election returns, with intent to defeat a fair expression of the popular will, and any person or persons whose duty it may be to grant certificates of election, or in any manner declare the result of any election held by authority of law, who shall grant a false certificate, or declare the result of any election, based upon fraudulent, fictitious or illegal votes or returns with intent to defeat a fair expression of the popular will, or to deprive any person duly elected of his office, shall be deemed guilty of a felony, and, upon conviction be punished as prescribed in the next preceding section.

SEC. 1501. Neglect of judges and clerks to perform duty — If the judges and clerks of any election, or any of them, shall willfully neglect, refuse or omit to perform any duty enjoined or required of them by law with respect to holding and conducting such election, receiving and counting out the ballots, and making proper returns thereof, or shall inspect or read any ballot voted, or disclose the name or names of any of the candidates of persons voted for by any voter at such election, shall be deemed guilty of a misdemeanor.

OFFENSES AGAINST PUBLIC ORDER.

[I. Mo. Rev. Stat. 1879, Ch. 24, Art. 7, p. 265.]

SEC. 1528. Disturbing religious assemblies or schools, etc. — Every person who shall willfully, maliciously, or

contemptuously disquiet, or disturb any camp meeting, congregation or other assembly met for religious worship, or when meeting at the place of worship, or dispersing therefrom, or any school or other meeting or assembly, of the people met together for any lawful purpose whatever, by making a noise, or by rude or indecent behavior, or profane discourse within the place of assembly, or so near the same as to interrupt or disturb the order or solemnity thereof, or who shall willfully menace, threaten or assault any person there being, shall be deemed guilty of a misdemeanor.

MISCELLANEOUS PROVISIONS.

[I. Mo. Rev. Stat. 1879, Ch. 24, Art. 9, p. 286.]

SEC. 1663. Punishment of cases not fixed by law — Whenever any offense is declared by statute to be a misdemeanor, and no punishment is prescribed by that or any other statute, the offender shall be punished by imprisonment in a county jail not exceeding six months, or by fine not exceeding two hundred dollars, or by both such fine and imprisonment.

COSTS IN CRIMINAL CASES.

[I. Mo. Rev. Stat. 1879, Ch. 24, Art. 25, p. 349.]

SEC. 2119. Fines to go to school fund — All fines and penalties imposed, and all forfeitures incurred, in any county, unless otherwise directed by law, shall be paid into the county treasury thereof, for the benefit of the school fund of the county.

See Act of April 2, 1885 [Laws Mo. 1885, p. 184], amending section 2779 on page 173 of this compilation.

See Act of March 7, 1885 [Laws Mo. 1885, p. 190], amending section 3126 on page 155 of this compilation.

OF OFFICERS.

[I. Mo. Rev. Stat. 1879, Ch. 55, p. 569.]

SEC. 3330. Term of office — All officers, elected or appointed by the authority of the laws of this state, shall hold their offices until their successors are elected or appointed, commissioned and qualified.

TAXATION OF INSURANCE COMPANIES.

[II. Mo. Rev. Stat. 1879, Ch. 119, Art. 5, p. 1199.]

SEC. 6066. Penalties for refusing to pay tax — No insurance company organized under the laws of this state, or any other state or territory of the United States, or of any foreign country, doing the business of insurance within this state, which shall hereafter fail, neglect or refuse to pay the license or state, county, city, town or school taxes required by the laws of this state, shall be permitted to transact the business of insurance within this state.

SCHOOL LANDS.

[II. Mo. Rev. Stat. 1879, Ch. 122, Art. 2, p. 1209.]

Construction of Acts relating to school lands — An act of the legislature requiring county courts to cancel a contract for sale of school lands is unconstitutional. *Butler v. Chariton County Court*, 13 Mo. 112. By the act of January 27, 1831, the United States relinquished all its right, title and interest in the lands reserved for schools by the act of 1812. *Cabanne v. Walker*, 31 Mo. 274. The second section, of the act of June 13, 1812, which reserves vacant lots for the use of schools, does not pass the title to the property so reserved from the United States. *Hammond v. St. Louis Public Schools*, 8 Mo. 65. And the subsequent confirmation of a claim by the act of April 29, 1816, takes the lot out of the reservation for the use of schools. *Hammond v. St. Louis Public Schools*, 8 Mo. 65. For further construction of said act see *Trotter v. Board, etc., St. Louis Public Schools*, 9 Mo. 69; *Eberle v. Board, etc., St. Louis Public Schools*, 11 Mo. 247. The act of 1812 is a reservation only, and that of 1831 is a grant. *Papin v. Ryan*, 32 Mo. 21. For lands

excepted from above acts, see Board, etc., St. Louis Public Schools *v.* Walker, 40 Mo. 383. As to what constitutes a disposition of the sixteenth section under act of March 6, 1820, see State *v.* Ham, 19 Mo. 592. Consent of the people of Missouri. *Id.* The title of the state to such land is superior to a claim based upon the act of Congress relinquishing to the claimant all the title remaining in the United States, and a patent is unnecessary. *Id.* When townships estopped from claiming sixteenth section. State to use *v.* Dent, 18 Mo. 313. Title of state to sixteenth section is not impaired or destroyed by previous location of New Madrid certificate upon it. Kennett *v.* Cole County Court, 13 Mo. 139. Title of the government in lands set apart for schools, passes, when. Patterson *v.* Fagan, 38 Mo. 70.

See Act March 24, 1881 [Laws Mo. 1881, p. 157], amending section 6117 on page 133 of this compilation.

SEC. 6118. Notice of such sale, how given — Such notice shall be given in the same manner as shall be required, by law, in selling lands by virtue of a writ of *fierti facias*.

SEC. 6119. Minimum price — Such land shall not be sold for less than one dollar and twenty-five cents per acre.

SEC. 6120. May be again offered for sale once in each year — If, after such sale, any part of such lands shall remain unsold, the sheriff of each county, if the county court shall deem it necessary, shall, once in each year, again offer such lands for sale, by giving the same notice and in the same manner as is hereinbefore provided.

SEC. 6121. To be sold in forty acre lots — How divided. Such lands shall be sold in lots of forty acres, and shall be divided in the same manner that the public lands of the federal government are divided when sold in lots of forty acres: provided, that if a sixteenth section be in the vicinity of a city or village, it shall be lawful, on the petition of two-thirds of the inhabitants of the township in which the same is situated, for the county court to make an order authorizing the inhabitants of such township to cause such sixteenth section to be laid out and sold in lots of a less

size than forty acres, and to lay out such streets, alleys and roads, and to appropriate such portion thereof as they may deem necessary for sites for school houses, churches and for pleasure grounds.

SEC. 6122. Bond and security for the purchase money to be given — The purchaser shall give bond, with good and sufficient security, payable one year after date, to the county, for the use of the inhabitants of the township to which the lands purchased may have belonged; which bond shall bear interest at the rate of ten per centum per annum from its date until paid, and shall be returned by the sheriff to the county court of the county to which the land belongs, and by the court deposited in the office of the county clerk.

SEC. 6123. Certificate of purchase to be given — Entitled to patent, when — A certificate of purchase shall be issued by the sheriff to the purchaser, describing the land sold, reciting the number of acres, amount of purchase money, and the manner in which the payment is secured; and such certificate, after full payment shall have been made, shall entitle the purchaser to a patent for the land so purchased.

SEC. 6124. Abstract of lands sold to be furnished to register — The county court shall make out and forward to the register of lands an abstract of all lands sold under the provisions of this chapter; and when the purchase money shall be fully paid, together with the interest which may have accrued thereon, the court shall make and forward to the register of lands a statement showing the tract or tracts for which payment has been made.

SEC. 6125. Patent to issue on paying purchase money — Upon the receipt of such statement, the register of lands shall make out, in the name of the state, patents for the lands paid for; and after having recorded the same in a well bound book, to be provided for that purpose, shall forward

the same to the county court of the proper county, to be by it delivered to the person entitled thereto, on the presentation and surrender of the original certificates given to such persons, which certificates shall be filed and forever preserved by the county court.

SEC. 6126. How such patents to be signed and attested — The patents issued in virtue of the provisions of this chapter, shall be signed by the governor, countersigned by the secretary of state, and attested by the great seal of the state of Missouri.

SEC. 6127. If purchaser pay the money at the time of sale, may have patent — A purchaser of land, under the provisions of this chapter, may pay the purchase money at the time of sale, and entitle himself to a patent therefor as soon as the same can be issued.

SEC. 6128. Additional security may be required — If not given, contract violated — Proceedings — Whenever the county court may deem the security for the payment of any bond for the purchase money of township school lands insufficient, it may require other and additional security, and upon failure to give such other and additional security, the contract shall be considered as violated, and the court shall forthwith proceed to collect the amount due on account of such sale, as if no time had been given for the payment thereof; and whenever lands shall be seized under execution, issued upon any judgment founded upon the non-payment of the purchase money of any of said school lands, it shall be lawful for, and the county court is hereby empowered, when at the sale under the execution it shall appear that such lands will not sell for the amount of the judgment, to bid in and buy said lands for the use of the township to which the land upon which judgment was rendered was given, and in whose behalf the execution issued: provided, however, that the county court shall not, in any event, pay more for such lands at any sale than

the amount of the judgment under which the sale was had, and the costs thereon.

SEC. 6129. Compensation of sheriff — The sheriff shall be allowed, as a compensation for advertising, selling and taking bond, one per centum on the amount of sales made in pursuance of this chapter, to be paid out of the school fund to which the money arising from such sales belongs.

SEC. 6130. Compensation of the clerk and treasurer — The clerk of the county court and treasurer of the county shall each receive for his services, performed under this chapter, such compensation as the county court may deem proper, not to exceed, to the treasurer of the county, one-half of one per centum on all money received and paid out by him.

SEC. 6131. When court may sell lands on petition of less than fifteen inhabitants — Whenever it shall appear to the satisfaction of the county court, by petition, that so much of section six thousand one hundred and seventeen as provides that the sixteenth sections in the several congressional townships shall be sold on a petition of a majority of fifteen householders of such township, cannot be carried into effect on account of extensive prairies, or other local causes, such court may, in its discretion, order the sale of such lands, on the petition of a majority, if there shall be as many as seven such householders resident in the township.

SEC. 6132. A majority may petition to lease, etc. — A majority of the householders in any congressional township may petition the county court to lease their sixteenth section, or the lands selected in lieu thereof.

SEC. 6133. Notice of such intended petition to be given — Notice of such intended petition shall be given by at least four written or printed handbills, signed by a householder, and put up in public places in the township, or by advertisement in a newspaper published in the

county, at least twenty days before the petition is to be presented to the court, and ten days before such petition shall be presented to such householders for signatures.

SEC. 6134. Court may make an order of lease, etc.— The court, when such petition is presented and publicly read, and upon proof of notice having been given as required by the preceding section, if it is satisfied that a majority of the householders of the township are in favor of leasing such lands, shall make an order, a copy of which shall be furnished to the trustees of such township, directing them to lease the same for a period, if unimproved, not exceeding ten years, and if improved, not exceeding three years.

SEC. 6135. Contents and stipulations of leases under this chapter — Leases made in pursuance of this chapter shall set forth the lands let, by metes and bounds, the time and duration of the lease, the rents reserved; and shall specify, particularly, the improvements, if any, to be made, and contain proper covenants for the payment of the rent reserved, making the specified improvements, and that such lessee shall not cut down, injure or destroy any timber upon the premises let, other than what shall be necessary for firewood, making the specified improvements and repairing the buildings, fences and other improvements, or, if the premises let contain mineral, carrying on the mining and smelting business; that such lessee will not commit, or suffer to be committed, any waste, spoliation or destruction of the buildings or fences which may, at any time, be erected on such premises; and that he will, at the end of his term, or other sooner determination thereof, yield up the premises in good repair, with such other covenants as the nature of the contract may require; and reserving to the trustees the right to re-enter at any time, for a breach of any covenant contained in such lease.

SEC. 6136. Lease to be approved before taking effect —

No lease shall take effect until it shall be approved by the county court, or a majority of the justices thereof in vacation, and, when approved, shall be deposited in the office of the treasurer of the county.

SEC. 6137. Violation of covenants in lease, notice to quit — Suit against tenant, how brought — The county court, upon a breach by the lessee of any covenant contained in the lease, shall notify the lessee to yield up the possession of the demised premises; and if such lessee shall neglect or refuse to do so, for the period of ten days after he shall be notified, the trustees shall proceed against him and obtain restitution, in the same manner and with like effect as in other cases of tenants holding over.

SEC. 6138. Rents to be paid into county treasury — All rents reserved upon leases of township school lands shall be paid into the treasury of the county in which the township to which the fund belongs is situated; and the county treasurer shall give the lessee duplicate receipts therefor, stating therein the amount paid and on what account; one of which shall be delivered by the lessee to the clerk of the county court, who shall charge the amount thereof to the county treasurer, on account of the township school fund to which it belongs.

SEC. 6139. Before half of the purchase money has been paid, and on application of purchaser, how sale to be annulled — Whenever the purchaser of any school land, or any person claiming under him, shall petition the county court to have the sale of such land annulled, and such petition shall also be signed by three-fifths of the householders of the school township in which such land lies, the county court may, by an order of such court, direct such sale to be annulled; upon such order being made, the certificate of purchase shall be given up, and the same, with all securities and obligations for the payment of the purchase money and interest thereon, shall be cancelled by

such court, and the land shall thereafter be disposed of by such court as if the same had never been exposed to sale: provided, that no such order shall be made in any case after one-half of the purchase money has been paid, nor until all the interest due on such purchase shall be paid, or secured for payment.

SEC. 6140. Purchase money to be refunded without interest — Whenever any sale shall be annulled by any court, by virtue of the preceding section, and any part of the purchase money has been paid, the county court shall draw a warrant, to be paid out of the moneys belonging to the township in the treasury of the county, for the amount paid, in favor of the person entitled to the same; but no warrant shall be issued for any interest, nor shall any interest be refunded which may, before the annulling such contract, have been paid on the purchase. The two preceding sections shall not apply to the county [city] of St. Louis.

SEC. 6141. In what manner, and how other lands may be selected in lieu of sixteenth section — When the inhabitants of any congressional township, may, by any law of congress, acquire a right to relinquish their sixteenth section, and select lands in some other part of the state in lieu thereof, and when a majority of such inhabitants make known their intention to relinquish to the county court, such court shall, if good land can be selected in the same county, appoint some disinterested person of the county to make the selection, who shall, in the performance of his duty, conform to the law of congress giving the right to relinquish and select; and the lands so selected shall, in all respects, be sold or managed as hereinbefore provided for the sale or management of sixteenth sections; and if a majority of such inhabitants wish to select land, in lieu of their sixteenth section, in some other county, then the county court shall report the fact, from time to time, as

made known to them, to the governor, particularly describing the land relinquished, by stating the number of acres, section, township and range.

SEC. 6142. Governor to appoint a person to make such selection — It shall be the duty of the governor to appoint, when, in his opinion, it shall be necessary, some discreet person, who is a good judge of the value of lands, to select, for the inhabitants of the different townships, lands in lieu of those relinquished.

SEC. 6143. Duty of such person in making such selection — Per diem — The person appointed by the governor shall make selection of lands, in lieu of those relinquished, in accordance with such law as congress may pass on the subject, taking care to choose the most valuable, and shall make report of his proceedings to the governor, describing the quantity selected, and its location, by its section, township and range ; for which service the person appointed shall be allowed two dollars per day, to be paid out of the state treasury.

SEC. 6144. Governor to certify such selection to the proper county — The governor shall cause the secretary of state to certify such selections to the county court of the proper county, which certificate shall set forth a particular description of the land, by its section, township, range and number of acres ; and shall, also, cause the secretary of state to certify to the clerk of the circuit court of each county in which any lands so selected may be situate, the number of the section therein selected, township and range, and the county for which they are selected ; which certificate shall be recorded by such clerk in the office of the recorder of such county, and a certified copy thereof shall be evidence.

SEC. 6145. Sheriff may sell such selected land, subject to the provisions of this chapter — The sheriffs of the respective counties, when any lands may be selected in lieu of

any relinquished sixteenth sections, shall sell such lands, under the regulations required by this article in selling the sixteenth sections proper; and when they shall take a bond of the purchaser, shall transmit the same to the county court of the county to which it properly belongs.

SEC. 6146. Attorney general, etc., to prosecute suits, etc.—The attorney general and circuit [prosecuting] attorneys, within their respective [counties] circuits, shall prosecute all suits for the recovery of moneys upon contracts made in pursuance of the provisions of this article.

SEC. 6147. Sheriff may, on leave of court, bid in any school lands—The county courts are hereby authorized, whenever they may deem it expedient so to do, to appoint the sheriff an agent to purchase, for the benefit of the township in which said lands may lie, any school lands for sale: provided, that said sheriff shall not bid an amount exceeding the debt for which said lands are offered for sale.

SEC. 6148. Certificates of purchase may be assigned—The certificate of purchase required to be given to the purchaser by the sheriff, in pursuance of section six thousand one hundred and twenty-three, may be assigned by indorsement thereon, in writing, by the owner thereof; which assignment shall convey to the assignee all the right, title and interest of the purchaser in the lands therein described.

SEC. 6149. Register may issue patent to assignee, when—Upon due proof of such assignment to the satisfaction of the county court, an entry thereof shall be made upon the record of such court; and that fact being certified to the register of lands, in addition to the facts necessary to be certified to enable an original purchaser to obtain a patent, shall authorize and require such register to issue a patent, in the name of the last assignee, for the land so transferred, in like manner and with like effect as other patents.

SEC. 6150. Clerk of county court to report lands se-

lected to register of lands — The clerk of the county court of all counties which shall have selected, or hereafter may select, school land for fractional townships, under provisions of an act of congress, entitled “an act to appropriate lands for the support of schools in certain fractional townships in the state of Missouri,” approved June 22, 1874, shall, as soon as such selections have been made and approved, report the lands so selected and approved to the office of the register of lands of the state of Missouri, stating in such report correctly what lands have been selected, and for which fractional township the selection has been made.

MANUFACTURERS’ LICENSES.

[II. Mo. Rev. Stat. 1879, Ch. 126, p. 1238.]

See “**MERCHANTS’ LICENSES**” [II. Mo. Rev. Stat. 1879, sec. 6313 *et seq.*] on page 102 of this compilation. Also “**TAXATION OF MERCHANTS AND MANUFACTURERS**” [II. Mo. Rev. Stat. 1879, sec. 6909 *et seq.*] on page 115 of this compilation. Also Act of Dec. 19, 1865 [Laws Mo. 1865, p. 271], and note thereunder on page 34 of this compilation.

SEC. 6282. Manufacturers to be taxed — All manufacturers in this state shall be licensed and taxed on all raw material and finished products, as well as all the tools, machinery and appliances used by them, in the same manner as is or may be provided by law for the taxing and licensing of merchants; and no county, city, town, township or municipal authority thereof shall ever levy any greater amount of tax against any manufacturer than is levied against merchants for the same period: provided, that manufacturers shall file, separately, their sworn statement of the greatest aggregate amount of raw material and finished products, which they may have had on hand between the first Monday in March and the first Monday in June, of the then current year, on any one day between said times, as well as the tools, machinery and appliances used in con-

ducting their business or owned by them on the first day of June of each year ; provided, further, that nothing in this chapter be so construed as to apply to manufacturers whose raw material, finished products, tools, machinery and appliances, in the aggregate amount, be less than one thousand dollars. Licenses issued under this chapter shall be for one year, ending on the first day of June of the then current year, and no other or greater amount of tax of any kind, whether state or local, shall be assessed, levied or collected by the state, or any county or municipality, on such raw material, finished products, tools, machinery and appliances, than is levied for the same year, upon merchandise, under the law regulating merchants' license.

SEC. 6283. A manufacturer defined — Every person, company or corporation, who shall hold or purchase personal property for the purposes of adding to the value thereof, by any process of manufacturing, refining, or by the combination of different materials, shall be held to be a manufacturer for the purposes of the foregoing section.

MERCHANTS' LICENSES.

[II. Mo. Rev. Stat. 1879, Ch. 129, p. 1244.]

See "MANUFACTURERS' LICENSES" [II. Mo. Rev. Stat. 1879, sec. 6282 *et seq.*] on page 101 of this compilation. Also "TAXATION OF MERCHANTS AND MANUFACTURERS." [II. Mo. Rev. Stat. 1879, sec. 6909 *et seq.*] on page 115 of this compilation. Also Act of Dec. 19, 1865 [Laws Mo. 1865, p. 271], and note thereunder on page 34 of this compilation.]

SEC. 6313. Who declared a merchant — Every person or copartnership of persons, who shall deal in the selling of goods, wares and merchandise, including clocks, at any store, stand or place occupied for that purpose, is declared to be a merchant.

SEC. 6314. Penalty for dealing without license — No person or copartnership of persons shall deal as a mer-

chant without a license first obtained according to law ; and every person so offending shall forfeit to the state not less than fifty nor more than five thousand dollars for every such offense, to be recovered by indictment.

SEC. 6315. Tax to be paid — Merchants shall pay an *ad valorem* tax equal to that which is levied upon real estate, on the highest amount of all goods, wares and merchandise which they may have in their possession or under their control, whether owned by them or consigned to them for sale, at any time between the first Monday of March and the first Monday in June in each year: provided, that no commission merchant shall be required to pay any tax on any unmanufactured article, the growth or produce of this or any other state, which may have been consigned for sale, and in which he has no ownership or interest other than his commission

SEC. 6316. Bond to be given — Any person or copartnership of persons, applying for a license to vend merchandise, shall, before he or they shall receive such license, execute a bond to the state, with two or more good and sufficient securities, who shall be freeholders at the time, conditioned that he or they will, on or before the first day of November next following, pay to the collector of the proper county the tax due upon such license ; which bond shall be approved by the collector, and his approval indorsed thereon.

SEC. 6318. Statement to be filed, when — On the first Monday in June in each year, it shall be the duty of every person or copartnership of persons, as provided by this chapter, to file in the office of the clerk of the county court of the county in which such license may have been granted, a statement of the greatest amount of goods, wares and merchandise which he or they may have had on hand at any time between the first Monday in March and the first Monday in June next preceding: said statement shall include

goods, wares and merchandise owned by such merchant, and consigned to him or them for sale by other parties. The clerk of the county court shall, on or before the first day of October next after the filing of such statements, enter an abstract of such statements in a book to be provided for that purpose, to be known as the "merchant's tax book," which shall contain the names of the merchants, alphabetically arranged, the amount of each statement and the amount of each kind of taxes levied thereon, which shall be the same rate as taxes assessed for the time on real estate; and he shall, on or before the first day of October, make out and deliver to the collector a copy of such abstract for the year then ending, and take the receipt of the collector therefor, which receipt shall specify the aggregate amount of each kind of taxes due thereon, and the clerk shall charge the collector with the amount of such taxes; and such clerk shall receive as compensation for making such tax book, copy, filing statements and certifying to same, the sum of six cents for each name or firm, one-half payable by the county, the other by the state.

PUBLIC SAFETY.

[II. Mo. Rev. Stat. 1879, Ch. 142, p. 1299.]

SEC. 6633. Doors to public buildings to be hung, how —
All the doors for ingress and egress to and from all public school houses and all other public buildings, and also of all theatres, assembly rooms, halls, churches, factories with more than twenty employees, and of all other buildings or places of public resort whatever, where people are wont to assemble, excepting school houses and churches of one room and on the ground floor, which shall hereafter be erected, together with all those heretofore erected and which are still in use as such public buildings or places of resort, shall be so hung as to open outwardly from the

audience rooms, "halls or work-shops of such buildings or places: provided, that said doors may be hung on double jointed hinges, so as to open with equal ease outwardly and inwardly.

SEC. 6634. Penalty, etc. — Any architect, superintendent or other person or persons or body corporate, who may have charge of the erection, or may have the control or custody of any of the said buildings or places of resort mentioned in the preceding section, who shall refuse or fail to comply with the provisions of said section within six months from the passage of this act, in case of said buildings or places aforesaid, which have been heretofore erected, and before the completion or occupation for said purposes, of any of said buildings or places now in process of erection, shall, on proof of such refusal or failure, before any court of competent jurisdiction, be adjudged to be guilty of a misdemeanor, and be punished by a fine of not less than one hundred nor more than one thousand dollars, which said fine shall be collected as is now provided by law for the collection of fines in such cases, and when collected shall be paid into and become a part of the public school fund of the county or city or incorporated town in which said misdemeanor was committed.

See Ordinances of City of St. Louis "BUILDING ORDINANCE AMENDED" on page 220 of this compilation.

TAXATION AND EQUALIZATION.

[II. Mo. Rev. Stat. 1879, Ch. 145, Art. 1, p. 1304.]

SEC. 6659. Exemptions — The following subjects are exempt from taxation: First, all persons belonging to the army of the United States; second, lands and lots, public buildings and structures, with their furniture and equipments, belonging to the United States; third, lands and other property belonging to this state; fourth, lands and

other property belonging to any city, county or other municipal corporation in this state, including market houses, town halls and other public structures, with their furniture and equipments, and all public squares and lots kept open for health, use or ornament; fifth, lands or lots of ground granted by the United States or this state to any county, city or town, village or township, for the purpose of education, until disposed of to individuals by sale or lease; sixth, lots in incorporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, when the same are used exclusively for religious worship, for schools or for purposes purely charitable, shall be exempted from taxation for state, county or local purposes.

See Section 6, Article 10 of the State Constitution for provisions on "EXEMPTIONS" which above section provides for enforcement of on page 182 of this compilation. See Act amending section 6664 and Act amending section 6667 of this article on pages 144, 148 of this compilation.

The words "exempted from taxation of every kind," in a charter of an institution, does not cover special assessments against the property for improvements of the streets fronting it. *Sheehan v. Good Samaritan Hospital*, 50 Mo. 155.

A railroad company is not required to pay school taxes in any other district than those through which the road passes or in which it holds property. *Livingston County v. Hannibal, etc., R. Co.*, 60 Mo. 516.

See Act of March 15, 1883 [Laws Mo. 1883, p. 135], amending section 6664 on page 144 of this compilation.

SEC. 6665 Officers defined — The term "assessor" or "assessors," wherever used in this chapter, shall be held to mean and refer to county, township, city, town or district assessors, as the case may require. The term "collector" or "collectors," wherever used in this chapter, shall be held to mean and refer to the county, township, city, town or district collectors, as the case may require.

SEC. 6666. Powers of state board — Such board shall have power to send for persons and papers, to administer

oaths through its officers or agents, and to take all evidence it may deem necessary to ascertain the value of the property in the different counties in the state.

See Act of March 16, 1883 [Laws Mo. 1883, p. 133], amending section 6667 on page 148 of this compilation.

SEC. 6668. Duty of state auditor — Property, how equalized — The state auditor shall lay before the board the abstracts of all the taxable property in the state, and the abstracts of the sales of real estate in such counties, as returned to him by the respective county clerks and the president of the board of assessors for the city of St. Louis, and the board shall proceed to equalize the valuation thereof among the respective counties in the following manner, to wit: First, they shall add to the valuation of the property, real or personal, in each county which they believe is valued below its true value in money, such per centum in each case as will raise it to its true value; second, they shall deduct from the valuation of the property, real or personal, of each county which they believe to be valued above its real value in money, such per centage as will reduce the same in each case to its true value.

SEC. 6669. Compensation of officers and members — The officers and members of said board shall receive the same pay per diem as officers and members of the general assembly, but no mileage shall be allowed in any case in consequence of their duties as members of said board; and the said board shall meet biennially at such time as may be designated.

SEC. 6670. State auditor to certify action to county clerk — When the state board of equalization shall have completed its labors, the state auditor shall immediately transmit to each county clerk the per centum added to or deducted from the valuation of the property of his county, specifying the per centage added to or deducted from the

real property and the personal property respectively, and also the value of the real and personal property of his county as equalized by said board; and the said clerk shall furnish one copy thereof to the assessor, and one copy to be laid before the annual county board of equalization. And it shall be the duty of the state auditor to require of clerks of the several county courts of this state to keep up the aggregate valuation of real and personal property in their respective counties, for those years in which no state board of equalization is held, to the aggregate amount fixed by the last state board of equalization.

ASSESSORS AND THE ASSESSMENT OF PROPERTY.

See Act of March 14, 1883 [Laws Mo. 1883, p. 134], amending section 6685 on page 141 of this compilation.

[II. Mo. Rev. Stat. 1879, Ch. 145, Art. 2, p. 1313.]

SEC. 6692. Assessment of manufacturing and business companies and stock in other corporations — The property of manufacturing companies and other corporations named in article eight, chapter twenty-one, and of all other corporations the taxation of which is not otherwise provided for by law, shall be assessed and taxed as the property of individuals. Persons owning shares of stock in banks or any joint stock institution or association doing a banking business, or any other insurance company, whether of fire, marine, life, health, accident or other insurance, incorporated under or by any law of the United States or of this state, are not required to deliver to the assessor a list thereof; but the president or other chief officers of such corporation shall, under oath, deliver to the assessor a list of all shares of stock held therein, and the names of the persons who hold the same, and shall also state the actual cash value of such stock and all the property belonging to such corporations. In estimating the value of such stock

and property, the officer making the same shall estimate and include all reserve funds, undivided profits, premiums or earnings, and all other values belonging to such corporations, which cash value shall be assessed and taxed as other personal property. Insurance companies or any corporations doing business on the mutual plan without capital stock, shall make like returns of the net value of all assets or values belonging thereto, which net value shall be assessed and taxed in like manner. Private bankers, brokers, money brokers and exchange dealers shall in like manner make return of all moneys or values of any description invested in or used in their business, which shall be taxed as other personal property: provided, however, that the license hereafter required to be paid by such bankers, brokers and dealers, in addition to such taxes, shall not exceed one hundred dollars per annum.

See Act of March 24, 1881 [Laws Mo. 1881, p. 178], amending sections 6695, 6705, 6716, 6717 on page 134 of this compilation.

SEC. 6709. Lands or lots not previously assessed — If by any means any tract of land or town lot shall be omitted in the assessment of any year or series of years, and not put upon the assessor's book, the same, when discovered, shall be assessed by the assessor for the time being, and placed upon his book before the same is returned to the court, with all arrearages of tax which ought to have been assessed and paid in former years charged thereon.

SEC. 6710. Informality of assessment does not invalidate — No assessment of property or charges for taxes thereon shall be considered illegal on account of any informality in making the assessment, or in the tax lists, or on account of the assessments not being made or completed within the time required by law.

SEC. 6711. Valuation to be placed on property and order of arrangement — The assessor shall value and assess

all the property on the assessor's books, according to its true value in money at the time of its assessment; and all other personal property shall be valued at the cash price of such property at the time and place of listing the same for taxation. Each tract of land and town lot shall be assessed and valued separately; but all land in a section, and lots in a square or block owned by one person, which are contiguous, or which can be consolidated into one tract, lot or call, shall be valued as one tract, lot or call, as contemplated in section six thousand seven hundred and six. Each kind of property shall be assessed separately from every other, but: First, the number of horses and their valuation; second, the number mules and asses and their valuation; third, the number of cattle and their valuation; fourth, the number of sheep and their valuation; fifth, the number of hogs and their valuation; sixth, all moneys, notes, bonds and other credits, in a separate column; but clocks, watches, carriages and household furniture, and other personal property, shall be entered in one column under the head of "other personal property."

COLLECTION OF THE REVENUE.

See Act of Feb'y 14, 1883 [Laws Mo. 1883, p. 141], amending section 6760 on page 140 of this compilation.

[II. Mo. Rev. Stat. 1879, Ch. 145, Art. 3, p. 1326.]

SEC. 6759. Sheriffs to collect fines, penalties and forfeitures — The sheriffs of the several counties shall collect and account for all the fines, penalties, forfeitures and other sums of money, by whatever name designated, accruing to the state or any county, in virtue of any order, judgment or decree of a court of record.

SEC. 6761. Sheriffs shall settle for same quarterly — The several courts of record shall, at each regular term, cause the sheriffs of the respective counties to make a full

and fair statement and settlement of all fines, penalties, forfeitures and judgments received by them, and not before accounted for and paid over.

See Section 8, Article XI., State Constitution, respecting "Fines, Penalties and Forfeitures" on page 191 of this compilation; also section 7103, II. Mo. Rev. Stat. 1879 amended, in reference to same subject on page 136 of this compilation.

COUNTY REVENUE.

[II. Mo. Rev. Stat. 1879, Ch. 145, Art 5, p. 1335.]

SEC. 6798. Taxes, how assessed, levied and collected—The following named taxes shall hereafter be assessed, levied and collected in the several counties in this state, and only in the manner and not to exceed the rates prescribed by the constitution and laws of this state, viz: the state tax and the tax necessary to pay the funded or bonded debt of the state, the tax for current county expenditures and for schools.

COLLECTOR'S AND COUNCIL'S DUTIES.

[II. Mo. Rev. Stat. 1879, Ch. 145, Art. 7, p. 1350.]

SEC. 6863. Collector of St. Louis city and his duty—The collector of the city of St. Louis shall collect the state taxes in the limits of said city in the same manner and to the same extent, and do and perform all other things and matters appertaining thereto, as fully to all intents and purposes as now required, or which may be required of the county collectors.

SEC. 6864. Council of St. Louis city—Powers and duties—The council of St. Louis shall, in all things appertaining to the assessing and collecting the state revenue and licenses in the limits of said city, perform and do all things which heretofore devolved on the county

court of St. Louis county, not otherwise provided in the scheme and charter of said city. Whenever the county of St. Louis, or the county court of St. Louis county is mentioned specially in this chapter, it shall be taken and understood as applying to the city of St. Louis.

See Sec. 6898, II. Mo. Rev. Stat. 1879, and secs. 2, 3 and 4, ch. 14. Laws applicable to St. Louis [II. Mo. Rev. Stat. 1879, p. 1557]; Sec. 23, Art. 4, City Charter and Act March 7, 1885 [Laws Mo. 1885, p. 195], on pages 113, 129, 157 of this compilation for laws imposing upon city officers duties formerly performed by county officers.

See Act of March 17, 1885 [Laws Mo. 1885, p. 229] amending section 6879, enacting new section in lieu of section 6880 and amending sections 6881, 6882, 6885, 6886 and enacting new section 6886a on page 158 of this compilation.

ASSESSMENT AND TAXATION OF RAILROADS.

[II. Mo. Rev. Stat. 1879, Ch. 145, Art. 8, p. 1356.]

SEC. 6883. Tax book to be delivered to collector—The county clerk shall, as soon as may be, after the railroad tax book shall have been made out and adjusted as above provided, deliver the same to the proper collector of such county, take duplicate receipts therefor, transmit one to the state auditor and charge the collector with the total amount of taxes in each of the several funds in such tax book; and thereafter said collector shall be liable on his bond for the faithful collection and disbursement thereof according to law.

See Act of March 15, 1883 [Laws Mo. 1883, p. 152], amending section 6884 on page 147 of this compilation.

SEC. 6887. When collector shall make seizure for taxes—If any railroad company shall fail to pay to the proper collector of any county at least one-half of all taxes assessed and levied against such railroad company in said county, on or before the first day of October next after the

same shall have become due and payable, or if such company shall fail to pay to said collector all of the taxes levied on the property of such company in said county on or before the first day of December next after the same shall have become due and payable, then it shall be the duty of said collector, upon such default, to immediately levy upon, seize and sell any or all the rolling stock and other personal property of whatever description of such railroad company liable for taxes in said county, in the same manner as personal property is or may be required to be seized and sold under executions on judgments at law, and the railroad tax book delivered to the collector, as hereinbefore provided, shall for this purpose have the force and effect of an execution, and shall be full and sufficient authority for the collector to make such seizure and sale.

SEC. 6898. Duties of officers in St. Louis — All services required to be performed by county officers under this article, shall be performed by the corresponding officers of the city of St. Louis, and wherever the word “county” occurs, the same shall be construed to apply to and include the city of St. Louis.

See note to section 6864 on page 112 of this compilation.

TAXATION OF BOATS AND VESSELS.

[II. Mo. Rev. Stat. 1879, Ch. 145, Art. 10, p. 1360.]

SEC. 6905. Steamboats, boats and vessels, where assessed — Steamboats and other boats and vessels used in navigating the waters of this state, and all shares, stocks and interests therein, are hereby declared a special class of property for the assessment and collection of taxes. All taxes on such property shall be assessed and collected in the county or city in which the owner or owners of said property may reside at the time of assessment.

SEC. 6906. Rates of taxation and how collected—

Any city or corporation of fifty thousand inhabitants or more, having an improved wharf in suitable condition for receiving and discharging freight, may, if the annual tax levied by said city or corporation for municipal purposes on the class of property above described, does not exceed one mill per dollar of the assessed valuation, charge and collect, for the maintenance and extension of said wharf, in addition to the tax assessed and collected for municipal purposes, a wharfage tax not to exceed three cents per ton, hull and measurement, from all boats and vessels returned and assessed for taxation in said city for each and every landing at the wharf of said city: provided, however, that from all steamboats and vessels not owned or registered within said city, or which have not been returned and assessed for taxation within said city, a wharfage tax, not exceeding five cents per ton, hull measurement, may be collected for each and every landing, to be applied to the building, repairing and maintaining of the wharf of said city.

SEC. 6907. Charge of wharfage, collection of—Any city or corporation having a population exceeding five thousand and less than fifty thousand inhabitants, and having an improved wharf in suitable condition for receiving and discharging freight, may charge and collect two dollars for each and every landing at said wharf; and any city or corporation having a less population than five thousand, and having an improved wharf in good condition, may charge and collect the sum of one dollar and fifty cents for each and every landing of any steamboat or other water craft at said wharf.

SEC. 6908. Certificate to be made by assessor—Upon due return being made to the assessor of the proper county or city by the owner or owners of any steamboat or other water craft, it shall be the duty of such assessor to grant a certificate for such steamboat or other water

craft so returned, upon demand therefor, setting forth the fact of such return, with the name of the owner or owners, and that of the steamboat or other water craft, and also the residence of the same and the date of such return, stating the same to have been done in accordance with this article ; and such certificate is hereby made, declared to be, and shall, by all justices, magistrates, courts and officers of all kinds in this state, be taken and held to be conclusive evidence of the statements and facts therein made and recited. Such certificates shall be framed and hung up in the cabin of said boat in a conspicuous place.

TAXATION OF MERCHANTS AND MANUFACTURERS.

[II. Mo. Rev. Stat. 1879, Ch. 146, Art. 11, p. 1361.]

See "MANUFACTURER'S LICENSES" [II. Mo. Rev. Stat. 1879, sec. 6282 *et seq.*] on page 101 of this compilation. Also, "MERCHANTS' LICENSES" [II. Mo. Rev. Stat. 1879, sec. 6313 *et seq.*] on page 102 of this compilation. Also Act of Dec. 19, 1865 [Laws Mo. Adj. Sess. 1865, p. 271], and note thereunder on page 34 of this compilation.

SEC. 6909. What shall constitute a separate class — For the purpose of state, county and municipal taxation, merchandise held by merchants, and the raw material, merchandise, finished products, tools, machinery, and appliances used or kept on hand by manufacturers, shall constitute a class separate and distinct by itself.

SEC. 6910. Lower rate of tax than that on real estate authorized — All cities in this state, having a population of over three hundred thousand inhabitants, are authorized to levy, for local purposes, a less *ad valorem* rate of taxation, than that levied by them on real estate or other property for the same purpose ; and said reduction may, from time to time, be arranged to apply on both or either the tax rate for payments of valid indebtedness, or the tax rate for city purposes.

SEC. 6911. Regulation of merchants' and manufacturers' license — All such cities, for city and local purposes, are hereby authorized to license, tax and regulate the occupation of merchants and manufacturers; and may graduate the amount of annual license imposed upon a merchant or manufacturer in proportion to the sales made by such merchant or manufacturer during the year next preceding any fixed date.

OF SCHOOLS.

[II. Mo. Rev. Stat. 1879, Ch. 150, Art. 1, p. 1384].

See Act of March 4, 1885 [Laws Mo. 1885, p. 244], amending sections 7122, 7123, on page 153 of this compilation; also Act April 2, 1883 [Laws Mo. 1883, p. 183], amending section 7030 on page 152 of this compilation.

SEC. 7034. Renewal funding bonds, issue of — The board of education of any school district, organized under any general or special law of this state, is hereby authorized to issue renewal funding bonds for the district, to be exchanged for outstanding bonds of the district or sold for the purpose of meeting and paying any matured or maturing bonded indebtedness thereof. Each bond shall be of the denomination of not more than one thousand nor not less than one hundred dollars, and shall bear interest not to exceed eight per centum per annum, and such interest shall be payable semi-annually, and to this end each bond shall have semi-annual coupons attached thereto, and to be made payable to bearer. Such renewal bonds shall be payable twenty years after date, but shall be redeemable at the pleasure of the board of education at any time after the expiration of five years from the date thereof, and shall be payable, principal and interest, in the city of St. Louis or the city of New York, at the option of the board of education, or as may be agreed upon by such board of education and the purchaser of such bonds. Such board of education shall

be empowered to prepare and issue, from time to time, such number of renewal bonds as may be necessary for the objects and purposes of this chapter, and each bond shall be signed by the president, countersigned by the secretary or clerk, and authenticated by the seal of such board of education, if there be one; and shall also be attested by the clerk of the county court of the county in which such district is located, and he shall put the seal of said court on each of said bonds. The secretary or clerk of the board of education shall keep a record in the books of the school district of all renewal bonds that may be issued by the board of education under the provisions of this chapter, noting the date when issued and when due, and also the number and amount of each bond so issued, and shall also keep a full record of all transactions that may be necessary for the identification of such bonds.

SEC. 7035. Exchange and sale of bonds—No commission allowed—Boards of education are empowered to exchange the aforesaid bonds for any bonds that may now be outstanding against any school district so indebted; but no renewal bonds shall be exchanged for any outstanding bond for a sum less than ninety cents on the dollar of its face value. Said boards of education shall also be empowered to sell such renewal bonds for cash, if, in their judgment, it will be to the interest of such school district; but no commission shall be allowed or cost incurred in the exchange or sale of said bonds which will reduce the net proceeds of the same to a less amount than ninety cents on the dollar, and all sums of money realized from the sale of said renewal bonds shall be used in the redemption of outstanding bonds of the school district.

A board of education sold its bonds at ninety cents on the dollar, the purchaser charging and retaining out of the proceeds one per cent as a commission on the sale. *Held*, that this transaction was not a violation of the statute. *Franklin Ave., etc., Inst. v. Board, etc., of Rescoe*, 75 Mo. 408.

SEC. 7036. Redeemed bonds to be destroyed — Whenever any bonds shall be redeemed, as provided for in this chapter, such bonds shall be burned in the presence of a majority of the members of the board of education and two other credible persons as witnesses of the fact, and the secretary or clerk of the board of education shall record in the books of the school district a description of the bonds so destroyed, by noting the date when issued and when due, and the number and amount of each of said bonds, and specify what members of the board of education and who, as witnesses, were present at the burning of said bonds.

SEC. 7037. Tax levy for sinking funds—Boards of education are hereby authorized to make an estimate for the levy of a tax, not to exceed two-fifths of one per cent. upon all the taxable property of the school district at its assessed valuation, said tax to be levied and collected in the same manner as other taxes for school purposes; and the money arising from said tax shall constitute a sinking fund, and shall be used only for the redemption of any outstanding bonds of such district: provided, that if such outstanding bonds cannot be obtained, then such money shall be invested in United States bonds or bonds of the state of Missouri, until such time as said outstanding bonds can be obtained.

SEC. 7038. Tax levy for annual interest — Boards of education are hereby authorized to make an estimate for the levy of a tax upon all the taxable property of the school district at its assessed valuation, said tax to be levied and collected as other taxes for school purposes; said tax to be sufficient in amount to pay the annual interest on all bonds of their respective districts, and to pay for the printing or engraving of any bonds that may be issued by virtue of this chapter.

SEC. 7039. Compensation and liability of treasurer —

The treasurer of each board of education or school district shall be responsible on his official bond for the safe keeping of the sinking fund herein provided for, and all bonds in which the same or any part thereof may be invested, and also for any loss or damage resulting from the failure to burn any and all redeemed bonds as hereinbefore required, and shall receive such compensation for his services in the safe keeping of said sinking fund, and investing and handling the same, not to exceed one per cent. per annum on the amount, as may be provided for by order of the board of education.

See Act of March 26, 1881 [Laws Mo. 1881, p. 202], amending section 7044 on page 138 of this compilation; also Act of March 28, 1885 [Laws Mo. 1885, p. 239], amending section 7045 on page 172 of this compilation.

SEC. 7051. Condemnation of site — Whenever any district shall select a site for a school house, and cannot agree with the owner thereof as to the price to be paid for the same, or for any other cause cannot secure a title thereto, the board of directors may proceed to condemn the same, in the same manner as provided for condemnation of right of way in chapter twenty-one, article six of the revised statutes, entitled “of appropriation and valuation of lands taken for telegraph, telephone, gravel and plank or railroad purposes;” and on such condemnation, and the payment of the appraisement as therein provided, the title of such lot or land shall vest in the board of directors, for use in trust for the district.

See State Constitution, Art. II., sec. 21, on page 177 of this compilation, An appropriation of property for the use of a local school is an appropriation of it to a public use. *Township Board, etc., v. Hackmann*, 48 Mo. 243. See also chapter 21, article 6 of Missouri Revised Statutes. above referred to on page 69 of this compilation.

See Acts of March 16 and April 2, 1883 [Laws Mo. 1883, pp. 187, 188], amending sections 7052, 7054 on pages 149, 150 of this compilation.

SEC. 7059. Increase of tax levy to maintain school—
Whenever it shall become necessary, in the judgment of the board of directors of any school district, or board of trustees, or boards of education of any city, town, or village in the state to increase the annual rate of taxation for school purposes, or when any five resident taxpayers of such district shall petition such board, in writing, that they desire an increase in the rate of taxation, such board shall determine the rate of taxation necessary to be levied in such district within the maximum rates prescribed by the constitution for such purposes, and shall submit to the voters of said city, town, village or other school district, who are taxpayers of such city, town, village or other school district, at an election to be by such board called and held for that purpose, at the usual place of holding elections for members of such board, whether the rate of taxation shall be increased as proposed by said board, and if a majority of the voters, who are taxpayers, voting at such election, shall vote in favor of such increase, the result of such vote and the rate of taxation so voted in such district shall be certified by the clerk or secretary of such board or district to the clerk of the county court of the proper county, who shall, on the receipt thereof, proceed to assess and carry out the amount so returned on the tax book, on all the taxable property, real and personal, of such city, town or village, or other school district, as shown by the last annual assessment for state and county purposes, including all statements of merchants, as provided by law.

See section 11, article 10 of the State Constitution.

This provision of the Constitution limiting the rate of taxation does not require legislative action to enforce it and goes into effect at once, notwithstanding the proviso allowing the rate to be increased by legislative action, and a specified popular vote. *St. Joseph Board of Public Schools v. Patten*, 62 Mo. 444. See, also, *State ex rel. v. Holladay*, 66 Mo. 304; *State ex rel. v. St. Louis, etc., R. Co.*, 74 Mo. 163; *State v. St. Louis, etc., R. Co.*, 75 Mo. 526; *McPike v. Pen*, 51 Mo. 63.

SEC. 7060. Increase for erecting school houses — Such boards of education or school boards of any city, town or village, or board of directors of any school district in this state, shall, whenever it shall become necessary in their judgment, or be requested by a petition of ten tax payers of any school district, city, town or village, to increase the annual rate of taxation for the purpose of erecting school buildings in such district, determine the rate of taxation necessary to be levied within the maximum rates prescribed by the constitution, and as therein limited for such purposes, and shall submit to the voters of districts formed of cities, towns and villages, or other school district, at an election to be by such board called and held for that purpose, at the usual place of holding elections for members of such board, whether the rate of taxation shall be increased as proposed by said board for erecting school buildings; and if two-thirds of the qualified voters of such school district, or of such city, town or village, forming a school district, voting at such election, shall vote in favor of such increase for the purpose aforesaid, the result of such vote and the rate of taxation so voted, shall be certified by the secretary or clerk of such board to the clerk of the county court of the proper county, who shall, on the receipt thereof, proceed to assess the amount so returned for building purposes on all the taxable property, both real and personal, of such city, town or village, forming such school district or other school district, as shown by the last annual assessment for state and county purposes, including all statements of merchants, as is provided by law.

See note to Act, Dec. 9, 1865, respecting *Merchants' Statements* on page 35 of this compilation.

SEC. 7061. Annual election may increase tax — The elections authorized in this chapter may be held at the same time and place and in the manner now provided by law for

holding elections for school purposes; but the proposition in that event submitted must be voted upon separately, and certified as hereinbefore provided.

SEC. 7062. Notice of elections for increase of tax — Said boards of directors, or boards of education, calling such election, shall cause at least fifteen days public notice to be given of the time and place of holding such election or elections, and the purposes for which it is held, by publication in some newspaper published in such city, town or village forming such school district, or other school district; and if no newspaper is published in such school district, then by five written or printed handbills, posted in five of the most public places in such district.

See note to section 7059 above.

See Act of March 31, 1885 [Laws Mo. 1885, p. 238], amending section 7064 on page 172 of this compilation.

SEC. 7066. Penalty for injuring school property or failure to perform official duty — Every person who shall willfully injure or destroy any building used as a school house, or for other educational purposes, or any furniture, fixtures or apparatus thereto belonging, or who shall deface, mar or disfigure any such building, furniture or fixture, by writing, painting, cutting or pasting thereon any likeness, figures, words or devices, shall be fined in a sum double the value of any such buildings, furniture or apparatus so destroyed, and shall be fined in a sum not less than ten nor more than fifty dollars for each offense, for writing, painting, cutting or pasting on any such building, furniture or fixtures, any such words, figures, likeness or device, to be recovered by civil proceedings in any court of competent jurisdiction; and the punishment provided in this section to be in addition to, and not in lieu of, the punishment provided by the statute regulating crimes and punishments for such offenses. Any district or county clerk, county com-

missioner, or county treasurer, or other officer, who shall persistently neglect or refuse to perform any duty or duties pertaining to his office under this chapter, shall be regarded as guilty of a misdemeanor, and subject to a fine of not less than fifty nor more than five hundred dollars, to be recovered in any court of law in this state having competent jurisdiction.

See sections 1366 and 1367 on page 79 of this compilation.

See Act of April 2, 1885 [Laws Mo. 1885, p. 243], amending section 7077 on page 174 of this compilation.

SEC. 7078. Register of attendance — It shall be the duty of every teacher employed in any of the public schools of the state, to keep a daily register, in which the names, ages and date of entrance of the pupils shall be entered, and the studies pursued by the same; the date of each visitation by the directors or other school officer, which register shall be open to the inspection of the public at all times.

SEC. 7090. Duties of state board of education — It shall be the duty of the state board of education to take the general supervision over the entire educational interests of the state; to direct the investment of all moneys received by the state to be applied to the capital of any fund for educational purposes; to see that all funds are applied to such branch of the educational interests of the state as, by grant, gift, devise or law, they were originally intended.

SEC. 7091. Duty of board in relation to swamp lands — The state board of education is hereby required to ascertain from all the various counties in the state having swamp or other school lands, what disposition has been made of the same, and when in any case it shall be ascertained that the objects of the grant have been violated, the funds arising therefrom perverted, or the lands or moneys used for any purpose other than those named in the grant and by the law intended, it shall be their duty to institute suits to re-

cover the same in the name of the state, in behalf of the public schools of the county in which such lands lie.

SEC. 7092. Duty as to state school fund of counties — It shall also be the duty of the said board of education to ascertain from all the counties of the state what disposition has been made of the state school fund drawn by the counties from the state yearly, how much thereof has been transferred to the school townships, and when any such fund, or any part thereof, has been diverted from its lawful use, it shall be their duty, in like manner as in the last section provided, to institute suit for and collect the same, and return it to its legitimate channel.

SEC. 7095. Public school fund — From what sources derived, and how invested — There is hereby created a public school fund, the annual income of which shall be applied as hereinafter directed. The proceeds of all lands that have been or may be hereafter granted by the United States to this state, and not otherwise appropriated by this state or the United States; also, all moneys, stocks, bonds, lands or other property now belonging to any fund for the purposes of education, except wherein the vested rights of townships, counties, cities or towns would be infringed; also, the net proceeds of the state tobacco warehouse, and of all sales of lands and other property and effects that may accrue to the state by escheat, or for sale of estrays, or for unclaimed dividends or distributive shares of the estate of deceased persons, or from fines, penalties or forfeitures; also, any proceeds from the sale of public lands which may have been or hereafter may be paid over to this state, if congress will consent to such appropriation; also, all other grants, gifts or devises that have been or hereafter may be made to this state, and not otherwise appropriated by the terms of the grant, gift or devise; which shall be invested under the direction of the state board of education, either in bonds of the United States or bonds of the

State of Missouri; the income of which, together with twenty-five per cent. of the state revenue shall be applied annually to the support of the public schools provided for in this chapter, to be divided and apportioned as hereinafter provided.

See Article XI., section 6, Constitution on page 190 of this compilation.

SEC. 7096. Account kept, by whom — The regular account of the public school fund shall be kept by the state auditor, who shall quarterly certify to the treasurer a copy of such accounts, not before reported by him.

SEC. 7098. Investment of money belonging to capital of fund — Whenever there shall be in the treasury, or elsewhere, subject to the order of the treasurer, any money belonging to the capital of the public school funds, the state auditor shall make reports thereof to the state board of education, who shall direct the investment of the same in bonds of the United States, or bonds of the state of Missouri. That portion of the income and revenue to be distributed for the support of the public schools shall be payable on the warrant of the auditor, in favor of the treasurers of the several counties, in each year, immediately after the apportionment of such moneys shall have been made and filed. The board of president and directors of the St. Louis public schools shall return the annual enumeration made by it of children of school age resident within said city, to the state superintendent of public schools; and it shall be the duty of the state superintendent of public schools to apportion to said city its share of the annual income of the public school funds, upon such enumeration and return, and certify the same to the state auditor, and the state auditor shall, annually, immediately after such apportionment has been made and filed, draw his warrant for its share thus apportioned, in favor of the

board of president and directors of the St. Louis public schools, on the state treasurer.

See Act of March 24, 1881 [Laws Mo. 1881, p. 203], amending section 7103 on page 136 of this compilation.

SEC. 7105. Collection of fines and penalties, and other school moneys — The said county clerk shall collect, or cause to be collected, the fines and penalties and all other moneys for school purposes in his county, and pay the same over to the county treasurer, on account of the public school fund; and he shall inspect all accounts of interest for section sixteen and other school lands, whether the interest is paid by the state or by the debtors, and take all the proper measures to secure to each township its full amount of school funds.

See section 8, article 11 of the State Constitution; sections 6759 and 7616 of Missouri Revised Statutes, and Act referred to in note to last preceding section on pages 110, 136, 191 of this compilation.

SEC. 7106. Township school fund, from what source derived — The proceeds of the sixteenth section, or other lands selected in lieu thereof, the interest of such proceeds, the rents and profits of such lands, and all the public school moneys which shall be apportioned to any unorganized township, arising from dividends, proceeds and profits of the public school fund, shall constitute a township school fund.

SEC. 7124. Distribution of funds when township lies in two counties — Where any original surveyed township, in which section sixteen has been sold, shall lie in two or more counties, the clerks of the respective counties shall certify to the clerk of the county in which that portion of the said township lies containing said section sixteen, the enumeration of scholars in that part of said township embraced in their respective counties; and the clerk of said

county in which said section sixteen is situate shall apportion the fund derived from said section sixteen to the different portions of said township, according to said enumeration, and shall certify to the clerks of the other counties the amount belonging to the parts of said township situate in their respective counties, and draw an order in favor of the treasurers of the other counties on the treasurer of his own county, for the amount belonging to each; and the clerks of the respective counties shall apportion the same to such parts thereof as may be entitled thereto.

See Act of March 18, 1885 [Laws Mo. 1885, p. 245], amending section 7125 on page 167 of this compilation.

SEC. 7127. Report of county clerk to state superintendent — The clerk of each and every county court shall, on or before the first day of November, annually, make out and transmit to the superintendent of public schools, at Jefferson City, an abstract of all the returns of school districts, cities or towns, in his county, made to him, according to the form that may be prescribed by the state superintendent; also, the amount of income of the school funds of said county, and amount realized from taxes collected therein.

SEC. 7129. Collector's receipt and compensation — It shall be the duty of the county clerk to take a receipt from the county collector for the school taxes by him placed on the school tax book; and the collector shall proceed to collect the same, in like manner as the state and county taxes are or may be collected; and he shall receive, as full compensation for his services, on the amount collected and paid over by him, the same per cent. as is allowed by law to collectors for collecting other taxes; and he shall pay over, monthly, to the county treasurer all such taxes collected, and take his receipt therefor.

SEC. 7130. Collection of delinquent taxes — The col-

lector shall, at the same time of returning the land delinquent list for state and county taxes, return therewith all land school taxes herein provided for, which shall remain unpaid; and when so returned, the same shall be a lien on such real estate, and be collected in the same manner that other delinquent taxes on land are collected, and, when so collected, shall be paid over to the county treasurer as other school taxes.

SELLING LIQUOR TO STUDENTS OF SCHOOLS.

[II. Mo. Rev. Stat. 1879, Ch. 156, Art. 2, p. 1429.]

SEC. 7276. Selling liquor to students, how punished — Any person who shall knowingly sell, give, or in any manner dispose of any intoxicating liquor to any student of the state university, or of any school, college or academy in this state, shall be guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than forty nor more than four hundred dollars, or by imprisonment in the county jail not less than three months, nor more than one year, or by both such fine and imprisonment: provided, that it shall be lawful for druggists to sell or give such liquor to any student upon the written prescription of a regular practicing physician in good standing, or upon the written order of the president of the university or college, or the principal of the school or academy at which such student may be in attendance, or by the written order or consent of the parent or guardian of such student: provided, that nothing in this section shall be so construed as to apply to any mercantile or business college.

EXEMPTION FROM JURY SERVICE.

[II. Mo. Rev. Stat. 1879, Ch. 5, Laws applicable to St. Louis, p. 1521.]

SEC. 9. Who exempt from jury duty — The name of no person shall be taken down who shall, when called on by

said commissioner or his deputy, establish to the satisfaction of such commissioner or deputy, by competent proof and upon diligent inquiry made by said officer, a legal exemption from jury duty as a member of any military or fire company or otherwise; * * * or who holds any office of profit or employment created by or authorized under the laws of the United States, or of the state of Missouri, or the ordinances of the city within which such jury commissioner is appointed. * * * And it shall be the duty of every court of record in said city to excuse from service, as a juror, every person who, being examined on the *voir dire*, shall appear to the court to be a person whose name ought not to have been placed upon the jury list under the provisions of this act, or who has served on any jury in any court of this state within twelve months next preceding, if challenged for that cause by either party of the suit; and the court may excuse such person without challenge by either party.

The Legislative Committee reported that they were advised by the Attorney of the Board that members of the School Board are exempt from jury service. See V. Off. Proc. 325.

CERTAIN DUTIES TO BE PERFORMED BY CERTAIN OFFICERS.

[II. Mo. Rev. Stat. 1879, Ch. 14, Laws applicable to St. Louis, p. 1557.]

SEC. 2. Municipal assembly, etc., to perform duties of county court—All acts and parts of acts which provide for the performance of any duty or trust by any county court in this state, shall also include the municipal assembly, and the mayor and comptroller of the city of St. Louis.

SEC. 3. Certain laws to apply to St. Louis—All laws requiring any officer of any county to perform any duty, service or trust, under the laws of this state, shall include

all corresponding city officers named in the charter and scheme of separation for the government of the city and county of St. Louis.

SEC. 4. Duties of the county clerk to be performed by the register — All laws providing for the performance of any duty, service or trust, by any county clerk, shall apply to the register of the city of St. Louis, as if such officer was specially named in such law, acts or parts of acts.

See note to section 6864 Missouri Revised Statutes respecting duties to be performed by officers on page 112 of this compilation.

ACTS

OF THE

MISSOURI LEGISLATURE

PASSED SUBSEQUENT TO THE
REVISED STATUTES OF 1879.

N. B. — In Acts in which the words “so that said section when so amended will read as follows:” or similar words appear, sub-heads have been omitted.

EMPLOYMENT OF ELECTIONEERERS.

This Act does not appear in the Revised Statutes of 1879 and would therefore be regarded as repealed. But the law relating to registration, approved March 31, 1883 [Laws Mo. 1883, p. 38], see page 64 of this compilation, cites it in such manner that it may be construed as being re-enacted. It is therefore inserted here.

AN ACT to provide for punishing persons for giving or receiving any money or other valuable thing, to be used for electioneering purposes. [Laws Mo. 1874, Adj. Sess., p. 54.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Penalty for bribing voters or employing electioneers — Every person who shall give any money or other valuable consideration to any person whomsoever, for the purpose of securing the services of such person as a canvasser or electioneer in any election held under or

in pursuance of the laws of this state, or of any town or city duly incorporated under the laws of this state, and every person who shall give to another any money or other valuable thing to be used in paying for vinous, spirituous or fermented liquors, to be given away or treated, or which may been given away or treated, at any election, or during the canvass preceding any such election, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not less than six hundred dollars, nor more than one thousand dollars, or by imprisonment in the county jail not less than six nor more than twelve months, or by both such fine and imprisonment.

SEC. 2. Penalty for accepting gifts, bribes, etc. — If any person shall receive any money or property, or other valuable thing whatever, to influence such person in his vote in any election held under the laws of this state, or of any incorporated town or city, or to be used by such person for the purpose of influencing or controlling, or in any manner affecting any such election, or to be used for any electioneering purposes whatever, such person shall be deem guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than five hundred dollars, nor more than one thousand dollars, or by imprisonment in the county jail not less than six months nor more than one year, or by both such fine and imprisonment.

SEC. 3. Parties convicted shall forfeit their office — If any person convicted under the provisions of this act shall have been a candidate for any office at the election at which he committed the offense for which he was convicted, he shall, in addition to the penalties prescribed in this act, be ineligible to such office, and if he was elected at such election, his conviction as aforesaid shall vacate his office, and the same shall be filled in the manner provided by law.

SEC. 4. Act takes effect immediately — This act shall take effect and be in force from and after its passage.

APPROVED March 18, 1874.

SALE OF FRACTIONAL PART OF SIXTEENTH SECTION.

AN ACT to amend Section six thousand one hundred and seventeenth of Article two of the Revised Statutes of Missouri of 1879, concerning "School Lands." [Laws Mo. 1881, p. 157.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Amend section 6117 of the Revised Statutes of Missouri of 1879, by adding the following proviso thereto: "*Provided*, that in any fractional township in this state wherein less than fifteen householders now, or shall hereafter reside, a majority of the householders of such fractional township may petition the county court for an order to sell the sixteenth section in such fractional township, or other lands which have been, or shall be selected in lieu thereof, in like manner as hereinbefore provided," so that said section when so amended will read as follows:

Section 6117. In all congressional townships in this State in which there are fifteen householders, they shall have the right to sell their sixteenth sections, or such lands as have been or shall be selected in lieu thereof; and upon the petition of a majority of such householders, the county court shall make an order, a copy of which shall be furnished to the sheriff, directing him to expose such lands to sale at the court house door, and while the circuit court of the county is in session, after giving sixty days notice thereof: *Provided*, that in any fractional township in this State wherein less than fifteen householders now, or shall hereafter reside, a majority of the householders of such fractional township may petition the county court for an order to sell the sixteenth section in such township, or other lands which have been or shall be selected in lieu thereof, in like manner as hereinbefore provided.

Approved March 24, 1881.

ASSESSMENT, TIME OF CHANGED.

AN ACT to amend Sections 6685, 6688, 6695, 6699, 6705, 6707, 6716, 6717 and 6718 of Article 2 of Chapter 145 of the Revised Statutes, entitled "Assessors and the Assessment of Property," by changing the time of the assessment from August first to June first, and to provide for the listing and assessment of real estate biennially [Laws Mo. 1881, p. 178] contains the following:

Be it enacted by the General Assembly of the State of Missouri, as follows:

SEC. 3. That section 6695 of the Revised Statutes be and the same is hereby amended by striking out the words and figures "August, 1871 and 1872," in the second line, and inserting in place thereof the words and figures "June, 1881," so that said section, when amended shall read as follows:

Sec. 6695. The clerk of the county court shall deliver to the assessor, on or before the first day of June, 1881, and every two years thereafter, the assessor's book of the last assessment of real estate, and the list of taxable lands furnished by the Register of Lands, and take his receipt therefor; and the assessor, so soon as he shall have completed his assessment and made his assessor's books for the year, shall return the whole of such papers and documents to the clerk.

SEC. 5. That section 6705 of the Revised Statutes be and the same is hereby amended by striking out the words and figures "August, 1872," from the second line, and inserting the words "June, 1881," in place thereof, so that said section, when amended, shall read as follows:

Sec. 6705. Real estate shall be assessed at the assessment which shall commence on the first day of June, 1881, and shall only be required to be assessed every two years thereafter. Each assessment of real estate so made shall be the

basis of taxation on the same for the two years next succeeding.

SEC. 6. That section 6707 of the Revised Statutes be and the same is hereby amended by inserting the word "assessment" after the word "three," in the ninth line thereof, so that said section, when amended, shall read as follows:

Sec. 6707. The President of the Board of Assessors of St. Louis city shall cause to be prepared plats, covering all tracts and lots of land in said city, showing, upon the respective pieces of property, as marked down on said plats, the names of the persons to whom each tract or lot was assessed for each year. He shall cause the changes for the assessment of the following years to be marked in different inks, stating on the first leaf of each plat book for what years the different inks were used; and such plats shall not be used to record the changes for a longer period than three assessment years on each set of plats.

SEC. 7. That section 6716 of the Revised Statutes be and the same is hereby amended by striking out the word "August," from the second line, and inserting the word "June" in place thereof, so that said section, when amended, shall read as follows:

Sec. 6716. Every person owning or holding property on the first day of June, including all such property purchased on that day, shall be liable for taxes thereon for the ensuing year.

SEC. 8. That section 6717 of the Revised Statutes be and that the same is hereby amended by striking out the word "August," from the second line, and inserting the word "June" in place thereof; and by striking out the word "annually" from the third line, and inserting the word

“biennially” in place thereof; so that said section, when amended, shall read as follows:

Section 6717. Government lands entered or located on prior to the first day of June, shall be taxable for that year and biennially thereafter; school and swamp lands and lots shall become taxable whenever the county sells, conveys, or agrees to convey its title; real property shall in all cases be liable for the taxes thereon, and a lien is hereby vested in favor of the State in all real property for all taxes thereon, which lien shall be enforced as hereinafter provided in this chapter. Said lien shall continue and be in force until all taxes, forfeitures, back taxes and costs shall be fully paid or the land sold or released as provided in this chapter.

Approved March 24, 1881.

INVESTMENT OF COUNTY SCHOOL FUND.

AN ACT to amend Section seven thousand one hundred and three (7103), Article one (1), Chapter one hundred and fifty (150), of the Revised Statutes of the State of Missouri for the year 1879, entitled “Schools,” in relation to county school funds. [Laws Mo. 1881, p. 203.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

[SECTION 1.] That section seven thousand one hundred and three (7103), article one (1), chapter one hundred and fifty (150) of the Revised Statutes of the State of Missouri be amended by striking out the word “legal” in the third line of said section, between the words “highest” and “rate,” in the third line of said section; and by inserting the words “that can be obtained, not exceeding ten nor less than six per cent. per annum,” between the words “interest” and “on,” in the third line of said section so that said section as amended shall read as follows:

Section 7103. It is hereby made the duty of the several

county courts of this State, to diligently collect, preserve, and securely invest at the highest rate of interest that can be obtained, not exceeding ten nor less than six per cent. per annum, on unencumbered real estate security, worth at all times at least double the sum loaned, with personal security in addition thereto, the proceeds of all moneys, stocks, bonds and other property belonging to a county school fund; also, the net proceeds from the sale of estrays; also, the clear proceeds of all penalties and forfeitures, and of all fines collected in the several counties for any breach of the penal or military laws of the State; and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to, and be securely invested and sacredly preserved in the several counties, as a county public school-fund, the income of which fund shall be faithfully appropriated for establishing and maintaining free public schools in the several counties of this State.

[SEC. 2.] That all acts and parts of acts inconsistent with or repugnant to the provisions of this act, are hereby repealed.

Approved March 24, 1881.

ILLEGAL FEES.

AN ACT to amend Section 1486, Chapter 24, Article 6, of the Revised Statutes of Missouri, in relation to "Crimes and Criminal Procedure."
[Laws Mo. 1881, p. 111.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. That section 1486, chapter 24, article 6, of the Revised Statutes of Missouri, be amended by striking out the word "and," where it occurs in the second line of said section between the words "demand" and "receive,"

and inserting in lieu thereof the word "or," so that said section shall read as follows :

Section 1486. Every officer who shall, by color of his office, unlawfully and willfully exact, or demand, or receive any fee or reward to execute or do his duty, or for any official act done, or to be done, that is not due, or more than is due, or before it is due, shall, upon conviction, be adjudged guilty of a misdemeanor.

Approved March 26, 1881.

USE OF SCHOOL HOUSES.

AN ACT to amend Section seven thousand and forty-four (7044), Article one (1), Chapter one hundred and fifty (150), Revised Statutes of Missouri, in relation to the use of School Houses. [Laws of Mo. 1881, p. 202.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

[SECTION 1.] That section seven thousand and forty-four (7044), article one (1), chapter one hundred and fifty (150), Revised Statutes, be amended by adding to said section the following words: "Nothing in this section shall be so construed as to prevent the use of any school house for religious, literary or other public purposes, when such use shall be demanded by a majority of the voters of such district, voting at any annual or special meeting where such question was submitted," so that said section, when amended shall read as follows:

Section 7044. The board of directors shall have the care and keeping of the school house and other property belonging to the district, except such as may be especially confided to the district clerk. They shall provide the necessary globes, maps and other apparatus for the school room, shall keep the house in good condition and repair during the period a school shall be taught therein, as well

as the out-houses belonging thereto, and the grounds comprising the site therefor, provide fuel and other material necessary for the use of the school, and shall cause an accurate account of the expense thereof to be kept, and submit a report of the same at the ensuing annual meeting. Nothing in this section shall be so construed as to prevent the use of any school house for religious, literary or other public purposes, when such use shall be demanded by a majority of the voters of such district, voting at any annual or special meeting where such question was submitted.

Approved March 26, 1881.

Use for Sunday School—The board of directors of a school district have no power to allow a school house to be used for the purposes of a Sunday School—a use having no connection with the educational purposes for which the building was constructed. *Dorton v. Hearn*, 67 Mo. 301.

SURPLUS FUNDS FROM JUDICIAL SALES OF REAL ESTATE.

AN ACT to provide for the disposition of surplus funds accruing from the sale of real estate. [Laws Mo. 1883, p. 147.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Disposition of surplus in sales of real estate for taxes—When real estate has been sold for taxes or other debt by the sheriff of any county within the state of Missouri, and the same sells for a greater amount than the debt or taxes and all costs in the case, and the owner or owners, agent or agents cannot be found, it shall be the duty of the sheriff of the county, when such sale has been or may hereafter be made, to make a written statement describing each parcel or tract of land sold by him for a greater amount than the debt or taxes and all costs in the case, and for which no owner or owners, agent or agents can be found, together with the amount of surplus money

in such case, which statement shall be subscribed and sworn to by the sheriff making the same before some officer competent to administer oaths within this state, and then presented to the county court of the county where such sale has been or may hereafter be made; and on the approval of the statement by the court, the sheriff making the same shall pay the said surplus money into the county treasury, take the receipt in duplicate of said treasurer for said overplus of money, and retain one of the said duplicate receipts himself and file the other with the county court, and thereupon the court shall charge said treasurer with said amount. And said treasurer shall place such moneys to the credit of the school fund of the county, to be held in trust for the term of twenty years for the owner or owners or their legal representatives. And at the end of twenty years, if such fund shall not be called for, then it shall become a permanent school fund of the county. County courts shall compel owners or agents to make satisfactory proof of their claims before receiving moneys: provided, that no county shall pay interest to the claimant of any such fund.

SEC. 2. Repeal of act of March 19, 1881—That the act entitled “An act to provide for the disposition of surplus funds accruing from the sale of real estate,” approved March 19th, 1881, be and the same is hereby repealed.

Approved February 10, 1883.

FINES, PENALTIES AND FORFEITURES.

AN ACT to amend sections 6760, 6762, 6764, 6765, 6766, 6767 and 6769 of article 3, chapter 145, relating to the “Collection of the Revenue” [Laws Mo. 1883, p. 141], contains the following:

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. That section 6760 of chapter 145, article 3, of the Revised Statutes of the state of Missouri, relating to

the "Collection of the revenue," be and the same is hereby amended by striking out the words "collector of the revenue," in the sixth and seventh lines of said section, and inserting in lieu thereof the words "county treasurer," so that said section as amended, shall read as follows:

Section 6760. The clerks of the several courts of record shall keep a true account of all fines, penalties, forfeitures and judgments imposed, adjudged or rendered in favor of the state or any county by their respective courts, distinguishing those payable to the state from those payable to the county, and shall keep the same open for the inspection of the judges of the respective courts and the county treasurer.

Approved February 14, 1883.

ASSESSMENT, CLASSIFICATION.

AN ACT to amend section 1 of an act entitled "An act to amend sections 6685, 6688, 6695, 6699, 6705, 6707, 6716, 6717 and 6718 of article 2 of chapter 145 of the Revised Statutes, entitled 'Assessors and the Assessment of Property,' by changing the time of assessment from August 1st to June 1st, and to provide for the listing and assessment of real estate biennially," approved March 24, 1881. [Laws Mo. 1883, p. 134.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

[SECTION 1.] That section 1 of an act of the general assembly of the state of Missouri, approved March 24th, 1881, entitled "An act to amend sections 6685, 6688, 6695, 6699, 6705, 6707, 6716, 6717 and 6718 of article 2 of chapter 145 of the Revised Statutes, entitled 'Assessors and the Assessment of Property,' by changing the time of assessment from August 1st to June 1st, and to provide for the listing and assessment of real estate biennially," be and the same is hereby amended by striking out in the tenth subdivision of said section all that part between the word "connected," in the sixth line thereof, and the word "all,"

in the twelfth line therein, to wit: "All shot towers and all machinery therewith connected, all smelting furnaces and all machinery therewith connected, all gristmills, sawmills, oilmills, tobacco, hemp and cotton factories, tobacco stemmeries, ropewalks, manufactories of iron, nails, glass, clocks, and all other property belonging to manufactories of whatever kind, all wool carding machines, all distilleries, breweries, and all tanneries, all iron, copp̄r, brass and other foundries," and in lieu thereof insert, "and all portable mills of every description," which said section, when so amended, shall read as follows:

Section 1. The assessor, or his deputy or deputies, shall between the first days of June and January, and after being furnished with the necessary books and blanks by the county clerk, at the expense of the county, proceed to take a list of the taxable personal property in his county, town or district, and assess the value thereof in the manner following, to-wit: He shall call at the office, place of doing business or residence of each person required by this act to list property, and shall require such person to make a correct statement of all taxable property owned by such person or under the care, charge or management of such person, except merchandise, which may be required to pay a license tax, being in any county in this state, in accordance with the provisions of this chapter; and the person listing the property shall enter a true and correct statement of such property in a printed or written blank, prepared for that purpose, which statement, after being filled out, shall be signed and sworn to, to the extent required by this chapter, by the person listing the property, and delivered to the assessor. Such list shall contain: First, a list of all the real estate and its value, to be listed and assessed on the first day of June, 1881, and biennially thereafter, anything in this or any other act to the contrary; second, a list of all the live stock, showing the number of horses, mares and

geldings, and their value; the number of asses and jennets, and their value; the number of mules, and their value; the number of neat cattle, and their value; the number of sheep, and their value; the number of hogs, and their value, and all other live stock, and its value; third, an aggregate statement of all the farm machinery and implements, and their value; fourth, a statement of household property, including the number of pianos and other musical instruments, clocks, watches, chains and appendages, sewing machines, gold and silver plate, jewelry, household and kitchen furniture, and the value thereof; fifth, money on hand; sixth, money deposited in any bank or other safe place; seventh, an aggregate statement of solvent notes unsecured by mortgage or deed of trust; eighth, an aggregate statement of all solvent notes secured by mortgage or deed of trust; ninth, an aggregate statement of all solvent bonds, whether state, county, town, city, township, incorporated or unincorporated companies; tenth, all other property not above enumerated (except merchandise), and its value; under this head shall be included all pleasure carriages of all kinds, all shares of stock or interest held in steamboats, keelboats, wharfboats and all other vessels, all toll bridges, all printing presses, type and machinery therewith connected, and all portable mills of every description, all post coaches, carriages, wagons and other vehicles used by any person in the transportation of mails (except railway carriages), all carriages, hacks, wagons, buggies and other vehicles of every kind and description kept or used by liverymen, all carts, hacks, omnibusses and other vehicles used in the transportation of persons (except railway carriages), and all paintings and statuary, and every other species of property not exempt by law from taxation.

Approved March 14, 1883.

MEANING OF CERTAIN TERMS.

AN ACT to amend and re-enact section 6664 of article 2 [1] of chapter 145 of the Revised Statutes of Missouri, entitled "Of the Assessment and Collection of the Revenue." [Laws Mo. 1883, p. 135.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

[SECTION 1.] That section 6664 of article 2 [1] of chapter 145 of the Revised Statutes of Missouri be and the same is hereby amended and re-enacted by adding after the word "thereon," in the sixth line, the words: "all shot towers, all machinery therewith connected, all smelting furnaces and all machinery therewith connected, all grist mills, saw mills (except portable mills of every description), oil mills, tobacco, hemp and cotton factories, tobacco stemmeries, rope-walks, manufactories of iron, nails, glass, clocks, and all other property belonging to manufactories of whatever kind, all wool carding machines, all distilleries, breweries, and all tanneries, all iron, copper, brass and other foundries," so that said section, when so amended, shall read as follows:

Section 6664. The term "real property," "real estate," "land" or "lot," wherever used in this chapter, shall be held to mean and include not only the land itself, whether laid out in town or city lots or otherwise, with all things contained therein, but also all buildings, structures and improvements and other permanent fixtures, of whatsoever kind thereon, all shot towers, and all machinery therewith connected, all smelting furnaces and all machinery therewith connected, all grist mills, saw mills (except portable mills of every description), oil mills, tobacco, hemp and cotton factories, tobacco stemmeries, rope walks, manufactories of iron, nails, glass, clocks, and all other property belonging to manufactories of whatever kind, all wool carding machines, all distilleries, breweries, all tanneries, all

iron, copper, brass and other foundries, and all rights and privileges belonging or in any wise pertaining thereto, except where the same may be otherwise denominated by this chapter. The term "bonds," or "stocks," wherever used in this chapter, shall be held to mean and include bonds or stocks of whatsoever kind, whether issued by incorporated or unincorporated companies, towns, townships, cities, counties, states or other corporations, held or controlled by persons residing in this state, whether for themselves or as guardians, trustees or agents, on which the holder or owner thereof is receiving or is entitled to receive interest for themselves or others. The terms "capital stock" and "shares of capital stock," wherever used in this chapter, shall be held to mean and include the capital stock of every association, corporation, joint stock or other company, the stock or capital of which is or may be divided into shares which are transferable by the owner, for the taxation of the capital stock of which association, corporation, joint stock or other company, no special provision is made by this chapter, held by persons residing in this state, either for themselves or as guardians, executors, administrators, trustees or agents. The term "personal property," wherever used in this chapter, shall be held to mean and include bonds, stocks, moneys, credits, the capital stock, undivided profits, and all other means not forming part of the capital stock of every company, whether incorporated or unincorporated, and every share, portion or interest in such stock, profits or means by whatsoever name they may be designated; every share or portion, right or interest, either legal or equitable, in and to every ship, vessel or boat, of whatsoever name or description, whether such ship, vessel or boat shall be within the jurisdiction of this state or elsewhere, and whether the same shall have been enrolled, registered or licensed at any collector's office, or within any county or collector's dis-

trict in this state or not; the stock of nurseries, growing on leased lands or in the hands of nurserymen, which has been separated from the soil where growing, and every tangible thing being subject of ownership, whether animate or inanimate, and not forming part or any parcel of real property as hereinbefore defined. The term "money" or "moneys," wherever used in this chapter, shall be held to mean gold, silver, or other coin and paper or other currency used in barter and trade as money. The term "credits," wherever used in this chapter, shall be held to mean and include every deposit which the person owning, holding in trust, or having the beneficial interest therein, is entitled to withdraw in money on demand, and every claim or demand for money, interest, or other valuable thing due or to become due, or every annuity or sum of money receivable at stated periods, including pay and salaries accrued or due for any purpose whatever, and all income or interest accruing from government bonds, and all money loaned or invested, and all indebtedness secured by deed, contract, mortgage or pledge of property of whatsoever kind: provided, that pensions due and to be received from the United States shall not be held to be annuities within the meaning of this chapter. The term "property," wherever used in this chapter, shall be held to mean and include every tangible or intangible thing being the subject of ownership, whether animate or inanimate, real or personal. The term "oath," wherever used in this chapter shall be held to mean oath or affirmation. Every word in this chapter importing masculine gender may extend and be applied to females as well as males; and the word "person," as used in this chapter, shall be held to mean and include person, firm, company, corporation or otherwise whenever the case may so require its use or application.

Approved March 15, 1883.

RAILROADS, TAXATION OF.

AN ACT to amend sections 6866, 6877, 6884 and 6889 of article 8 of chapter 145 of the Revised Statutes, entitled "Assessment and Taxation of Railroads," by changing the time of assessment from August first to June first [Laws Mo. 1883, p. 152], contains the following:

Be it enacted by the General Assembly of the State of Missouri, as follows:

SEC. 3. That section 6884 of the Revised Statutes be and the same is hereby amended by striking out the word "August," in the sixth line thereof, and inserting the word "June" in place thereof, so that said section, when amended, shall read as follows:

SEC. 6884. All taxes of whatever description, charged against any railroad company according to the provisions of this article, due to any county, and all taxes due the state and collectible in said county, and all taxes due cities, incorporated towns, villages, municipal townships and school districts in such county, shall be due and payable to the county collector of such county on the first day of June of the year for which the same may be levied and charged as herein provided.

Approved March 15, 1883.

DISQUALIFICATION OF JUROR AND VOTER.

AN ACT to amend section 1378 of article 3, of chapter 24 of the Revised Statutes of Missouri, entitled "Of Offenses Against Public and Private Property." [Laws of Mo. 1883, p. 77.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. That section 1378 of article 3 of chapter 24 of the Revised Statutes of Missouri be and the same is hereby amended by adding to said section, in the seventh line thereof, the following words: "provided, that the

provisions of this section shall not apply to persons convicted of petit larceny before a justice of the peace," so that said section, as amended, shall read as follows :

Section 1378. Every person who shall be convicted of arson, burglary, robbery or larceny, in any degree in this article specified, or who shall be sentenced to imprisonment in the penitentiary for any other crime punishable under the provisions of this article, shall be incompetent to serve as a juror in any cause, and shall be forever disqualified from voting at any election or holding any office of honor, trust or profit within this state: provided, that the provisions of this section shall not apply to persons convicted of petit larceny before a justice of the peace or court of criminal correction, nor to any person who shall, at the time of his conviction of petit larceny, be under the age of twenty years.

Approved March 15, 1883.

TAXATION AND EQUALIZATION — STATE BOARD.

AN ACT to amend section 6667, article 1 of chapter 145 of the Revised Statutes of Missouri, entitled "Of the Assessment and Collection of the Revenue." [Laws Mo. 1883, p. 133.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

[SECTION 1.] Amend section 6667, article 1 of chapter 145 of the Revised Statutes by striking out in the second and third lines of said section the following words: "During the session of the general assembly, which convenes," and by further amending said section by striking out in the third line thereof the figures "1883," [1873] and by inserting in lieu thereof the words and figures: "on the last Wednesday in February, 1884," so that said section, when amended, shall read as follows:

Section 6667. The board shall meet at the capitol, in the City of Jefferson, on the last Wednesday in February, 1884,

and every two years thereafter, the majority of whom shall constitute a quorum, and the members thereof shall each take an oath of affirmation that he will, to the best of his knowledge and ability, equalize the valuation of real and personal property among the several counties in the state, according to the rules prescribed by this chapter for equalizing and valuing real property; and the secretary of the board shall keep an accurate account of all their proceedings and orders and file the same, together with all their papers, in the office of the state auditor. In order to avoid the expense of the state board of equalization for the present year, and the fact that there has been one collection made upon the assessment, creates an emergency within the meaning of the constitution; this act shall, therefore, take effect and be in force from and after its passage.

Approved March 16, 1883.

COLORED SCHOOLS.

AN ACT to amend section 7054 of the Revised Statutes of the state of Missouri in relation to colored schools. [Laws Mo. 1883, p. 188.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

[Section 1.]— That section 7054 of the Revised Statutes of the state of Missouri be and the same is hereby amended by striking out the words “state superintendent” between the words “of” and “to” in the first line of said section, and by inserting in lieu thereof the words “county courts,” and by striking out the words “state superintendent,” between the words “the” and “two,” in the fourth and fifth lines, and by inserting in lieu thereof the words “county court,” and by striking out the word “he,” between the words “purpose” and “shall,” in the sixth line, and by inserting in lieu thereof the words “the court,” so that said section, when amended, shall read as follows:

Section 7054. Whenever the board of education of any city or village, or directors of any district, shall neglect or

refuse to provide for a school, as contemplated in the preceding sections, it shall be the duty of the county court to provide for such school upon satisfactory proof of such neglect or refusal, and for that purpose the court shall be vested with all powers of said board in regard to such schools.

Approved March 16, 1883.

See State Constitution 1875, Art. XI., sec. 3, on page 188 of this compilation.

COLORED SCHOOLS.

AN ACT entitled an act to amend section seven thousand and fifty-two (7052) of chapter one hundred and fifty (150), article one (1) of the Revised Statutes of Missouri, "Of Schools." [Laws Mo. 1883, p. 187.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. — That section seven thousand and fifty-two (7052), article one (1), chapter one hundred and fifty (150) of the Revised Statutes be amended by striking out all of said section after the word "villages," in the twentieth line of said section, and inserting in lieu thereof: "provided, that when the number of colored children in any district shall be less than sixteen, they shall have the privilege of attending school in any district in the township where a school is maintained for colored children, and the board of directors of the district in which such children are enumerated shall transfer to the credit of the teachers' fund of the district in which such children may have attended school, an amount equal to the *pro rata* expense of such attendance, the same to be prorated according to the amount paid for teachers' wages during such school term," so that said section, as amended, shall read as follows:

Section 7052. Boards of education and the trustees and directors of schools, or other officers having authority in the premises, in each city, incorporated village or district,

shall be and they are hereby authorized and required to establish, within their respective jurisdictions, one or more separate schools for colored children when the whole number, by enumeration, exceeds fifteen, so as to afford them the advantage and privilege of a common school education, and all such schools, so established for colored children, shall be under the control and management of the board of education or other school officers who have in charge the educational interest of the other schools. But in case the average number of colored children in attendance shall be less than ten for any one month, it shall be the duty of said board of education, or other school officers, to discontinue said school or schools for any period not exceeding six months at any one time; and if the number of colored children shall be less than ten, the board of education shall reserve the money raised on the number of said colored children, and the money so reserved shall be appropriated as they may deem proper for the education of such colored children. In all other respects the terms and advantages of said schools shall be equal to others of the same grade in their respective districts, cities, and villages: provided, that when the number of colored children in any district shall be less than fifteen [sixteen], they shall have the privilege of attending school in any district in the township where a school is maintained for colored children, and the board of directors of the district in which such children are enumerated shall transfer to the credit of the teachers' fund of the district in which such children may have attended school, an amount equal to the *pro rata* expense of such attendance, the same to be prorated according to the amount paid for teachers' wages during such school term.

Approved April 2, 1883.

AGRICULTURAL AND HORTICULTURAL SOCIETIES.

AN ACT to exempt certain property used exclusively for agricultural and horticultural societies from taxation. [Laws Mo. 1883, p. 140.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. The real estate and personal property which may be used exclusively for agricultural or horticultural societies heretofore organized, or which may be hereafter organized in this state, shall be exempted from taxation for state, county, city or other municipal purposes.

SEC. 2 All acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 27, 1883.

WHEN A SPECIAL ELECTION FOR DIRECTORS MAY BE CALLED.

AN ACT to amend section 7030 of article 1, chapter 150 of the Revised Statutes of the state of Missouri, entitled "Of Schools." [Laws Mo. 1883, p. 183.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

[SECTION 1.] That section 7030 of article 1, chapter 150 of the Revised Statutes of the state of Missouri, be and the same is hereby amended as follows: By striking out the word "circuit," in the fourth line of said section, and inserting in lieu thereof the word "county," and by striking out the words "in the locality where," in the same line of said section, and inserting in lieu thereof the words "of the county wherein," so that said section, as amended, shall read as follows:

Section 7030. Whenever any election for school directors has failed to be called or opened by reason of the neglect of the officers authorized by law to call, open and conduct

such elections, the county court of the county wherein such election is to be held shall be authorized, upon the petition of five citizens of such locality, to order an election for such school directors, and shall appoint the judges of election, and the judges of such election shall certify the returns of such election to said court, and the court shall issue to the persons elected a certificate of election for the term for which said officers should have been elected if such election had taken place at the time provided by law.

Approved April 2, 1883.

The Act which the above Act amends was approved April 21, 1 [Laws Mo. 1877, p. 404.] The original Act was passed at the suggestion of the St. Louis School Board. See report of the Legislative Committee, II. Off. Proc. 207, and "Qualification of New Members," II. Off. Proc. 259.

APPORTIONMENT OF PUBLIC SCHOOL FUNDS.

AN ACT to amend sections 7122 and 7123, article 1, chapter 150 of the Revised Statutes of the State of Missouri, "of schools." [Laws Mo. 1885, p. 244.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION. 1. That section 7122, article 1, chapter 150 of the Revised Statutes of the state of Missouri, be amended by striking out the word "March," in the second line of said section, and inserting in lieu thereof the word "July," and by striking out the words "and immediately after their annual settlement with the county treasurers of their respective counties," in the eighth and ninth lines, between the words "annually" and "according," of said section, and inserting in lieu thereof the words "during the month of August," and by striking out the words "for which distribution is made," in the twenty-eighth and twenty-ninth lines, between the words "year" and "shall," of said section, and inserting in lieu thereof the words "ending the

thirtieth day of June, previous to said distribution," so that said section, when amended, shall read as follows :

Section 7122. The state superintendent of public schools shall, annually, in the month of July, apportion the public school fund applied for the benefit of the public schools among the different counties, upon the enumeration and returns made to his office, and shall certify the amount so apportioned to the state auditor, also to the county clerk of each county, stating from what sources the same is derived, which said sum the several county treasurers shall retain in their respective county treasuries, from the state fund ; and the county clerks shall, annually, during the month of August, according to the enumeration and returns in their offices, proceed to apportion the school funds for their respective counties ; and no district, city or town, which shall have failed to make and return such enumeration, shall be entitled to receive any portion of the public school funds ; and in making such distribution, each county clerk shall apportion all moneys collected on the tax duplicate of any district for the use of schools to such district, all moneys received from the state treasurer, and all moneys on account of interest of the funds accruing from the sale of section sixteen, or other lands in lieu thereof, to the district schools in the congressional townships and parts of congressional townships to which such land belonged, and all other moneys for the use of schools in the county, and not otherwise appropriated by law, to the proper district ; and he shall, immediately after making such apportionment, enter the same into a book to be kept for that purpose, and shall furnish the district clerks, and those of cities or villages, as the case may be, each with a copy of said apportionment, and order the county treasurer to place such amount to the credit of the district, city or town entitled to receive the same : provided, further, that no district, city or town, that shall have failed to afford the children thereof the privileges

of a free school for at least three months during the year ending the thirtieth day of June, previous to said distribution, shall be entitled to any portion of the public school fund for that year.

SEC. 2. Also amend section 7123 of the Revised Statutes, by striking out the word "first," in the second line, between the words "its" and "term," of said section, and inserting in lieu thereof the word "August," so that said section, when amended, shall read as follows :

Section 7123. The county court of each county shall, at its August term in every year, apportion the county public school moneys among the several districts in the county, according to the enumeration of the pupils resident therein.

Approved March 4, 1885.

CONSTRUCTION OF LAWS.

AN ACT to amend an act entitled "an act to amend section 3126 of article 2 of chapter 46 of the Revised Statutes of Missouri of 1879, entitled 'of laws,'" approved March 15, 1883. [Laws Mo. 1885, p. 190.]

Be it enacted by the General Assembly of the State of Missouri, as follows :

SECTION 1. That section 1 of an act of the general assembly of the state of Missouri, approved March 15, 1883, entitled "an act to amend section 3126 of article 2 of chapter 46 of the Revised Statutes of Missouri of 1879, entitled 'of laws,'" be and the same is hereby amended by inserting between the words "vacation" and "the," in the line next preceding the last line of said section, the words "or whenever any act is authorized to be done by, or any power given to, a clerk of any court in vacation," so that said section, when amended, shall read as follows: Section 1. That section 3126 of article 2 of chapter 46 of the Revised Statutes of Missouri of 1879, be and the same is hereby amended by adding at the end of said section

the words "twenty second, whenever any act is authorized to be done by, or any power given to, a court or a judge thereof in vacation, the words 'in vacation,' shall be construed to include any adjournment of court for more than one day," so that the section, when amended, shall read as follows :

Section 3126. The construction of all statutes of this state shall be by the following additional rules, unless such construction be plainly repugnant to the intent of the legislature, or of the context of the same statute : First, words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law, shall be understood according to their technical import ; second, words importing joint authority to three or more persons shall be construed as authority to a majority of such persons, unless otherwise declared in the law giving such authority ; third, the word " month " shall mean a calendar month, and the word " year " shall mean a calendar year, unless otherwise expressed, and the word year be equivalent to the words " year of our Lord ; " fourth, the time within which an act is to be done shall be computed by excluding the first day and including the last, if the last day be Sunday it shall be excluded ; fifth, the word " state " applied to any of the United States, shall include the District of Columbia and the territories, and the words " United States " shall include the said district and territories ; sixth, the word " will " shall include the words " testament " and " codicil ; " seventh, the words " written " and " in writing, " and " writing word for word, " shall include printing, lithographing or other mode of representing words and letters, but in all cases where the written signature of any person is required, the proper handwriting of such person, or his mark, shall be intended ; eighth, when a statute requires an act to be done, which, by law, an agent or deputy as well

may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy; ninth, the terms "real property," or "premises," or "real estate" or "lands," shall be deemed to be co-extensive with lands, tenements and hereditaments; tenth, the words "personal property," shall include money, goods, chattels, things in action and evidences of debt; eleventh, the word "property" shall include real and personal property; twelfth, when the word "town" is used in the act concerning the incorporation of towns and villages, it shall be construed to include village, and in relation to forming incorporations under said act, it shall be construed to mean village only; thirteenth, the term "executor" may include administrator, where the subject matter applies to an administrator; fourteenth, the Roman numerals and Arabic figures are to be taken as a part of the English language; fifteenth, the phrase, "under legal disability" includes married women, persons within the age of minority, or of unsound mind or imprisoned; sixteenth, the term "general election" refers to the election required to be held on the Tuesday succeeding the first Monday of November, biennially; seventeenth, the place where the family of any person shall permanently reside in this state, and the place where any person having no family shall generally lodge, shall be deemed the place of residence of such person or persons respectively; eighteenth, whenever, under the provisions of any law which shall be applicable to the city of St. Louis, as to the counties of this state, any act or duty shall be authorized or required to be performed by the clerk of the county court, such act or duty shall be performed by the register of the said city of St. Louis, and the term "county clerk" shall be construed to include the register of the city of St. Louis, so far as the same relates to any act or duty required to be performed in said city, similar in character to that required by

such county clerk in the respective counties of this state; nineteenth, whenever the word "county" is used in any law, general in its character to the whole state, the same shall be construed to include the city of St. Louis, unless such construction be inconsistent with the evident intent of such law, or of some law specially applicable to such city; twentieth, wherever the term "justice of the county court" shall appear in any statute, it shall be construed to mean judge of such court, and when the term "county or circuit attorney" shall be used in any law it shall be construed to mean prosecuting attorney, except when applied to the circuit attorney of the city of St. Louis; twenty-first, whenever any duty prescribed by the provisions of any law of this state in relation to probate matters is required to be performed by the county court, the same shall be taken and construed to be required to be performed by the probate court; twenty-second, whenever any act is authorized to be done by, or any power given to, a court or judge thereof in vacation, or whenever any act is authorized to be done by, or any power given to, a clerk of any court in vacation, the words "in vacation" shall be construed to include any adjournment of court for more than one day.

Approved March 7, 1885.

ASSESSMENT AND TAXATION OF RAILROADS FOR SCHOOL AND OTHER PURPOSES.

AN ACT to amend section 6879 and to repeal section 6880, and enact a new section in lieu thereof, and to amend sections 6881, 6882, 6885 and 6886, all of article 8 of chapter 145 of the Revised Statutes of Missouri of 1879, entitled "of assessment and taxation of railroads;" also enact a new section numbered 6886a; also an emergency clause. [Laws Mo. 1885, p. 229.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Amend section 6879, Revised Statutes of Mis-

souri, by inserting the words, "and for the erection of public buildings, and for other purposes," between the word "purposes," and the word "on," in the eighth line of said section; also by inserting the words, "and for the erection of public buildings, and for other purposes," between the word "purposes," and the word "shall," in the tenth line of said section; also by inserting the words, "and for the erection of public buildings, and for other purposes," between the word "purposes" and the word "on," in the nineteenth line of said section, so that said section, as amended, shall read as follows :

Section 6879. The county court, upon the receipt from the auditor of the certificate of the action of said board of assessment and equalization, the returns of the county assessor and the certificate of cities, towns and villages made under the preceding section, shall at the regular term of said court, if in session at the time, if not, at a special term of said court called for that purpose, ascertain and levy the taxes for state, county, municipal township, city, incorporated town and village and school purposes, and for the erection of public buildings, and for other purposes, on the railroad, and the property thereof in such county, municipal township, city and incorporated town or village, at the same rate as may be levied on other property, except that the rate for school purposes and for the erection of public buildings, and for other purposes, shall be ascertained as prescribed in the next succeeding section, and shall make an entry thereof on the records of said court, and in case the county court has failed or omitted, or may hereafter fail or omit, from any cause whatever, to levy the taxes, or any portion of the taxes, for any year or years, or in case the taxes, or any portion of the taxes for any year or years shall have been illegally or erroneously levied, then said court at the time of making the regular levy upon railroad property as herein provided, shall, in addition thereto, ascertain and levy the taxes for

state, county, municipal township, city, incorporated town or village and school purposes, and for the erection of public buildings, and for other purposes, on the railroad and the property thereof in such county, municipal township, city and incorporated town and village, which may have been or may hereafter be omitted or illegally or erroneously levied upon the valuation of the railroad and the property thereof, as returned by the state board of equalization for such year or years at the same rates that were levied upon other property for the year or years for which said taxes were omitted or illegally or erroneously levied: provided, that in no case shall the levy exceed the constitutional limit, and which taxes, when so levied, shall become due and payable, delinquent and subject to penalty as other railroad taxes now are and shall be recoverable as hereafter provided.

SEC. 2. Repeal section 6880, as amended by act approved March 29th, 1883, and enact the following new section in lieu thereof:

Section 6880. For the purpose of levying school taxes, and taxes for the erection of public buildings, and for other purposes, in the several counties of this state, on the road bed, rolling stock and movable property of railroads in this state, the several county courts shall ascertain from the returns in the office of the county clerk the average rate of taxation levied for school purposes, and also the average rate of taxation levied for the erection of public buildings, and for other purposes, each separately by the several local school boards or authorities of the several school districts throughout the county. Such average rate for school purposes shall be ascertained by adding together the local rates of the several school districts in the county, and by dividing the sum thus obtained by the whole number of districts levying a tax for school purposes, and shall cause

to be charged to said railroad companies taxes for school purposes at said average rate on the proportionate value of said railroad property so certified to the county court by the state auditor, under the provisions of this article, and said clerk shall apportion the said taxes for school purposes, so levied and collected, among all the school districts in his county, in proportion to the enumeration returns of said districts. Such average rate levied for the erection of public buildings, and for other purposes, shall be ascertained, each separately, by adding together the local rates of the several districts in the county levying a tax for the erection of public buildings, or for other purposes, and by dividing the sum thus obtained in each case by the whole number of districts in such county, and the clerk shall cause to be charged to said railroad companies, taxes for the erection of public buildings or for other purposes, at said average rate on the proportionate value of said railroad property so certified to the county court by the state auditor, under the provisions of this article, and the county court shall apportion the said taxes for the erection of public buildings, or for other purposes so levied and collected among the several school districts levying such taxes, in proportion to the amount of such taxes so levied in each of said districts: provided, that in cases where townships, cities or towns have made a valid subscription to such railroad, for the purposes of aiding in the construction of the same, and shall have legally issued their bonds or paid subscription thereto, and the county in which such townships, cities or towns are situated, shall not have subscribed any stock or legally issued any bonds to aid in the construction or equipments of such road, the payment of which is secured by a tax upon all the taxable property of the county, then, and in all such cases, the school taxes and taxes for the erection

of public buildings, and for other purposes, arising from assessments on said railroad property in such city, town or township as above specified, shall be distributed to the school districts in such township, city or town, in the proportion that the number of children of school age in such district bears to the number of school children in such township, city or town, and in cases where such county also shall have made a valid subscription, or legally issued its bonds to aid in the construction of such railroads, then the school taxes and taxes for the erection of public buildings, and for other purposes thereon, shall be distributed to the several school districts of such county, township, city or town so subscribing or issuing bonds in proportion to the amount of their several subscriptions: and provided further, that all lands, workshops and warehouses, and other buildings and personal property belonging to such railroad company lying in any school district, shall be taxed at the same rate as other property in such district, and the school taxes, and taxes for the erection of public buildings, and for other purposes, thereon, shall go to the district in which such lands, depots, workshops or buildings are situated.

SEC. 3. Amend section 6881 by striking out the words "and other taxes," where the same occur between the word "school," in the eighth line, and the word "levied," in the ninth line of said section, and inserting the words "taxes, and taxes for the erection of public buildings, and for other purposes;" also by striking out the words "and other taxes," where the same occur between the word "school," in the fourteenth line, and the word "levied," in the fifteenth line, and inserting the words "taxes, and taxes for the erection of public buildings, and for other purposes;" also by striking out the words "and other municipal taxes," where the same occur in the fifteenth and sixteenth lines, and inserting the words "taxes, and

taxes for the erection of public buildings, and for other purposes," so that said section, as amended, shall read as follows :

Section 6881. Within ten days after the county court shall have levied the taxes on railroad property, as prescribed in the two preceding sections, the county clerk of such county shall extend the same on a separate tax-book, to be known as the railroad tax-book, in which he shall place : first, the total valuation of the road bed and rolling stock of each railroad company, as equalized and apportioned to such county by the state board of assessment and equalization, with the amount of state, county, municipal township, city, town or village school taxes, and taxes for the erection of public buildings, and for other purposes, levied thereon by the county court stated separately ; second, a description of each tract of land, town lot, or other real estate, including the machine and work-shops and other buildings in numerical order, and personal property, as returned by local assessors, and the amount of state, county, municipal, city, town or village school taxes, and taxes for the erection of public buildings, and for other purposes, levied thereon, stating each separately, and crediting school taxes and taxes for the erection of public buildings, and for other purposes, to the proper district or municipality.

SEC. 4. Amend section 6882 by inserting the words "and taxes for the erection of public buildings, and for other purposes," between the word "taxes," in the eighth line, and the word "levied," in the ninth line of said section ; also strike out the words "and other taxes," in the last line of said section, and insert the words "taxes, and taxes for the erection of public buildings, and for other purposes," so that said section, as amended, shall read as follows :

Section 6882. It shall be the duty of the county clerk, as soon as said tax book is completed, to make out and cer-

tify to the secretary or chief managing officer, in this state, of the proper railroad company, a statement of taxes levied on the property of such railroad company in his county, which statement shall contain: first, the total valuation of road-bed and rolling stock as the same was equalized and apportioned to such county, and the amount of state, county, city, town or village, municipal township and school taxes, and taxes for the erection of public buildings, and for other purposes, levied thereon; second, the total valuation, as shown by the returns of local assessors, of all property in such county belonging to such railroad company, whether real, personal or mixed, including lands, warehouses, shops and other buildings, and the amount of state, county, city, town, village, school taxes, and taxes for the erection of public buildings, and for other purposes, levied thereon.

SEC. 5. Amend section 6885 by striking out the words "and other municipal taxes," where they occur between the word "school" and the word "levied," in the fourth line of said section, and insert the words "taxes, and taxes for the erection of public buildings, and for other purposes," so that said section as amended, shall read as follows:

Section 6884. All property owned or held by any railroad company in any county in this state shall be liable for the taxes assessed and levied against such company in such county, and all state, county, city, town, village, school taxes, and taxes for the erection of public buildings, and for other purposes, levied on the property of any railroad company in such county, together with all dues, penalties and costs accruing thereon, are hereby declared a prior lien in favor of the state on all the property of such company, real, personal, or mixed, including road-bed and rolling stock, lands, depots and

other buildings in such county; and the fact that taxes assessed against any specific property of such company shall have been paid shall not exempt such property from being subjected to the payment of any and all other taxes due by such company, and the same are hereby declared to be a prior lien upon all such property, real and personal, which lien shall have precedence of all other liens, judgments and decrees of whatever kind, and shall be enforced as hereinafter provided.

SEC. 6. Amend section 6886 by striking out the words "or other municipal," where they occur in the third line of said section, and by inserting the words "or for the erection of public buildings, and for other," so that said section, as amended, shall read as follows:

Section 6886. If any railroad company shall fail to pay to the county collector of the proper county any taxes levied for state, county, city, town, village, school, or for the erection of public buildings, and for other purposes, on the property of such railroad company in said county, on or before the first day of January next after the same shall have been assessed and levied, the same shall then be, on and after that date, known and treated as delinquent railroad taxes: and the said company shall forfeit and pay, in addition to the taxes with which said company may stand charged on the tax books of such county, such penalty as is provided by law for the non-payment of other delinquent taxes, which penalty shall be apportioned to the various funds respectively; and it shall be the duty of the collector to collect and account for, as other taxes, in addition to all taxes so charged against said company, the penalty aforesaid, in [on] all such taxes after the first day of January, till the same shall be paid.

SEC. 6886a. Whenever and wherever the words, "and for other purposes," occur in this act, they shall be held to mean

taxes or taxation for other purposes, and shall be construed to include all taxes, estimates for which shall have been made or the levy of which shall have been lawfully directed by any school meeting, school officer or school board, other than taxes for school purposes and taxes for the erection of public buildings herein provided for.

SEC. 7. Inasmuch as taxes may be levied at the annual meetings in April, an emergency arises under the constitution; therefore, this act shall take effect from and after its passage.

Approved March 17, 1885.

Railroads, Taxation of — Constitutionality of Act 1873. — It is within the power of the legislature to authorize the imposition of taxes for school purposes on the property of railroad companies; and in levying taxes for such purposes on railroad property in the several counties, on the road-bed, rolling stock and movable property, courts shall ascertain the average rate of taxation from the several local school boards or authorities of the several districts throughout the county. Such average rate shall be ascertained by adding together the local rates of the several districts, and dividing the sum by the number of districts.

Section 12 of the act of 1873 [Laws Mo. 1873, p. 65], which corresponds to section 6880 Rev. Stat. 1879, providing for the mode of taxation of railroad property for school purposes, is not in violation of section 11, article 10, of the State constitution, which provides that "for school purposes the annual rate on property shall not exceed forty cents on the \$100 valuation;" it would only be violative of such section in the event of the average rate exceeding this limit; nor is it in violation of the Fourteenth Amendment of the Federal constitution, which provides, among other things, as follows: "Nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." Nor was such section repealed by the act of March 15, 1875 (Laws Mo. 1875, p. 119), [approving *In re Apportionment Railroad School Tax*, etc., 78 Mo. 596]. *State ex rel. v. Missouri Pacific R. Co.*, 5 West. Rep. 347.

Distribution of Railroad Taxes — The road-bed of a railroad is chiefly valuable as an entirety, and its subdivisions within the limits of a county, or a school district, are not to be treated as local property under the acts of 1875 for the assessment and distribution of railroad taxes [Acts 1875, p. 121, § 8; p. 129, § 12]. The school taxes on such road-bed are properly distributed to the school districts therein in proportion that the number of school children in each district bears to the whole number in the county;

and the act of 1885 providing for such distribution is not unconstitutional, as giving a portion of the taxes levied upon property in one district to another. (*Wells v. City of Weston*, 22 Mo. 337 distinguished. *Approving State v. Severance*, 55 Mo. 388, and *Washington Co. v. R. R. Co.*, 58 Mo. 376). *In re*, etc., *Railroad School Tax*, etc., 78 Mo. 596.

Section 6880, Rev. Stat. 1879 — School taxes under section 6880 of the Revised Statutes of 1879 [since repealed, see page 158 of this compilation] cannot be levied on railroad property for building houses or paying past indebtedness. Such levy can be made only for school purposes proper. *State ex rel. Brown v. Wabash*, etc., R. Co., 83 Mo. 395.

Act of 1877 — Under the Act of 1877 (Laws Mo. 1877, p. 365, § 1; p. 129, § 1 amended) the fund arising from the taxation of railroads goes exclusively to the school districts in the townships only when such townships have made valid subscriptions to the railroads. When no such subscriptions have been made by the townships, the fund is distributed ratably among all the districts of the county, except that the taxes arising from land, depots, workshops and other buildings, belonging to the railroads, shall go to the districts in which such property is situated. *School District No. 1 v. Rhoads*, 81 Mo. 473.

LIMIT OF TAXATION FOR SCHOOL PURPOSES.

AN ACT to repeal section 7125, article 1, chapter 150 of the Revised Statutes of Missouri, 1879, entitled "of schools," and to insert in lieu thereof a new section. [Laws Mo. 1885, p. 245.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. That section 7125, article 1, chapter 150 of the Revised Statutes of Missouri, 1879, entitled "of schools," be and the same is hereby repealed and the following new section enacted in lieu thereof:

Section 7125. On the receipt of the estimates of the various districts, the county clerk shall proceed to assess the amount so returned on all taxable property, real and personal, in said districts, as shown by the last annual assessment for state and county purposes, including all statements of merchants in each district, of the amount of goods, wares and merchandise owned by them and taxable for state and county purposes: provided, that the levy thus extended shall not exceed in any one year as follows: For

building purposes, one per centum in districts formed of cities, towns and villages, and not more than sixty-five cents on the one hundred dollars in other districts; for school purposes, one per centum in districts formed of cities, towns and villages, and not more than sixty-five cents on the one hundred dollars in other districts; for sinking fund, forty cents on the one hundred dollars' valuation, and a sufficient amount to pay interest on bonded indebtedness, all of which shall be placed by the county clerk in a separate tax book, to be known as the "school tax book," which shall be subdivided corresponding to the districts in the county, and numbered accordingly; and he shall place in the proper subdivisions: First, a list of the names, alphabetically arranged of all persons owning any personal property in the district, total value thereof, and the amount of school tax assessed thereon; second, a list of all the lands and town lots, numerically arranged, with owners' names, if known, the total valuation of each tract or town lot, and the tax assessed thereon; and the county clerk shall list the names of all persons owning any personal property, who do not reside in any school district, and the value thereof; also list all the land and town lots in any territory not organized into a school district, and shall levy a tax of forty cents on the one hundred dollars' valuation on all such taxable property, said taxes to be collected as other taxes and distributed as provided in section 7122.

Approved March 18, 1885.

WEAPONS IN SCHOOL ROOM.

AN ACT to amend an act entitled "an act to amend section 1274, article 2, chapter 24 of the Revised Statutes of Missouri, entitled 'of crimes and criminal procedure,'" approved March 5th, 1883, relating to carrying concealed weapons. [Laws Mo. 1885, p. 139.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. That section 1 of an act entitled "an act to

amend section 1274, article 2, chapter 24 of the Revised Statutes of Missouri, entitled 'of crimes and criminal procedure,' approved March 5th, 1883, is hereby amended by striking out the word "twenty-five," in the 22d line of said section, and inserting in lieu thereof the word "fifty," and by striking out the word "exceeding," in the 23d line of said section, and inserting in lieu thereof, the words "less than five days nor more than," so that said section, as amended, shall read as follows:

Section 1274. If any person shall carry concealed, upon or about his person, any deadly or dangerous weapon, or shall go into any church or place where people have assembled for religious worship, or into any school room or place where people are assembled for educational, literary or social purposes, or to any election precinct on any election day, or into any court room during the sitting of court, or into any other public assemblage of persons met for any lawful purpose other than for militia drill, or meetings called under the militia law of this state, having upon or about his person, any kind of fire-arms, bowie-knife, dirk, dagger, slung shot or other deadly weapon, or shall, in the presence of one or more persons, exhibit any such weapon in a rude, angry or threatening manner, or shall have or carry any such weapon upon or about his person when intoxicated or under the influence of intoxicating drinks, or shall, directly or indirectly, sell or deliver, loan or barter to any minor any such weapon, without the consent of the parent or guardian of such minor, he shall, upon conviction, be punished by a fine of not less than fifty nor more than two hundred dollars, or by imprisonment in the county jail not less than five days nor more than six months, or by both such fine and imprisonment.

Approved March 20, 1885.

ASSIGNATION AND BAWDY HOUSES.

AN ACT to prevent the setting up or maintaining of a common assignation house or common bawdy house within one hundred yards of any building ordinarily used as a church, public school, public library, theater, city hall or court house, and to prevent the leasing or renting of any building, or part of a building within the limits aforesaid, to be used for such immoral purposes, and to prevent the keepers or persons in charge of such houses from deceiving decent persons by the display of signs of any honest business or occupation. [Laws Mo. 1885, p. 147.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Maintaining bawdy or assignation house within one hundred yards of a public school, etc., a felony — Punishment — Every person who shall set up or maintain a common assignation house or a common bawdy house within one hundred yards of any building ordinarily used as a church, public school, public library, theater, city hall or court house, shall, upon conviction, be adjudged guilty of felony, and punished by imprisonment in the penitentiary for a term not less than two years nor more than ten years.

SEC. 2. Leasing same for that purpose a felony — When no indictment shall be found — Every person who shall knowing lease or rent to another any house or building, or any part thereof, for either of the unlawful uses described in the foregoing section numbered one, shall, upon conviction, be adjudged guilty of a felony and punished by imprisonment in the penitentiary for a term not less than two years nor more than ten years; but if it shall moreover appear that the person renting or leasing such house or building, or any part thereof, made to and with such lessee a written lease of such premises, to be used for any lawful purpose therein specified, and that whenever such lease comprised an entire house or building, that the said lease has been duly ac-

known by the respective parties, and within ten days of such acknowledgment filed for record in the office of the recorder of deeds for the city or county wherein such premises were situate, no indictment shall be found nor any conviction had as against such person leasing or renting such premises, except upon the testimony of two credible witnesses.

SEC. 3. Obtaining lease under false pretenses a felony— Every person who shall, by written lease, duly acknowledged by the respective parties before some officer authorized to take the acknowledgment of deeds, obtain possession of any house or building, or any part thereof, upon the pretext that the same is to be used for any lawful purpose, and shall thereafter use the same for either of the purposes described in the aforesaid section numbered one, shall, upon conviction, be adjudged guilty of a felony and punished by imprisonment in the penitentiary for a term not less than two years nor more than ten years.

SEC. 4. Displaying sign to inveigle decent persons in such house a felony— Every keeper or person in charge of any house or building at such time ordinarily used as a common assignation house or common bawdy house, who shall expose or display or cause to be exposed or displayed, or knowingly permit to be exposed or displayed upon any outer wall, window, door or other exterior part of such house or building, any painted, printed or written announcement or sign of any honest occupation or business, whereby any decent person may be deceived or inveigled into such infamous house or building, shall, upon conviction, be adjudged guilty of a felony and punished by imprisonment in the penitentiary for a term of not less than two years nor more than ten years.

Approved March 28, 1885.

SCHOOL TIME.

AN ACT to repeal an act entitled "an act to amend sections 7029 and 7064 of article 1, chapter 150 of the Revised Statutes of Missouri, relating to schools," approved March 29, 1883, and to enact two new sections in lieu thereof [Laws Mo. 1885, p. 238], provides that the latter section shall be as follows:

Section 7064. The school day shall consist of six hours occupied in school; the school week shall consist of five days, thanksgiving day, 22d day of February and 4th of July and 25th day of December and 1st day of January excepted; the school month shall consist of four weeks; and the school year shall commence on the first day of July and end on the thirtieth day of June following.

Approved March 31, 1885.

ADMISSION OF NON-RESIDENT PUPILS.

AN ACT entitled an act to amend section 7045 of chapter 150, article 1 of the Revised Statutes of Missouri, entitled "of schools." [Laws Mo. 1885, p. 239.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. That section 7045 of the Revised Statutes of the state of Missouri, be and the same is hereby amended by adding thereto the following: "and be it further provided, that orphan children, or any children bound as apprentices, shall have the privilege of attending school in any district in the state of Missouri in which they may find a permanent or temporary home, without paying a tuition fee," so that said section, when amended, shall read as follows:

Section 7045. [Rules and regulations, and admission of non-resident pupils.] — The board shall have power to make all needful rules and regulations for the organization,

grading and government in their school district; said rules to take effect when a copy of the same, duly signed by a majority of the board, is deposited with the district clerk, whose duty it shall be to transmit, forthwith, a copy of the same to the teachers employed in the schools; said rules may be amended or repealed in like manner. They shall also have the power to suspend or expel a pupil whenever, upon due examination, they become satisfied that the interest of the school demands such expulsion, and may admit pupils not residents within the district, and prescribe the tuition fee to be paid by the same: provided, that whenever persons residing in one district are permitted to send to school in another district in which they pay a school tax, they shall have credit on the amount charged them for tuition by the amount of tax they pay in such district for teachers' salaries and current expenses: and be it further provided, that orphan children, or any children bound as apprentices, shall have the privilege of attending school in any district in the state of Missouri in which they may find a permanent or temporary home, without paying a tuition fee.

Approved March 28, 1885.

JURY SERVICE — EXEMPTION OF TEACHERS.

AN ACT exempting certain bank officials from jury duty by amending section 2779, chapter 43 of the Revised Statutes, 1879, [entitled "of grand and petit juries."] [Laws Mo. 1885, p. 184.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. To amend section 2779, chapter 43 of the Revised Statutes, 1879, by inserting after the word "record," in seventh line of said section, the words "president, cashier of any national bank or banking company incor-

porated under the laws of this state;" said section 2779, as amended, shall read as follows:

Section 2779. [Persons exempt from service.] — No person being a member of any volunteer fire company, duly organized and ready for active service, no person employed in any paid fire department, and no person exercising the functions of a clergyman, practitioner of medicine, or attorney at law, clerk, or other officer of any court, ferry-keeper, postmaster, overseer of roads, coroner, constable, miller, professor or other teacher in any school or institution of learning, judge of a court of record, president, cashier of any national bank or banking company incorporated under the laws of this state, or any person over the age of sixty-five years, shall be compelled to serve on any jury.

Approved April 2, 1885.

PHYSIOLOGY AND HYGIENE.

AN ACT to amend section 7077 of chapter 150 of the Revised Statutes of Missouri, entitled "of schools," by striking out part thereof and inserting a provision relating to the study of physiology and hygiene, the duties of directors in relation thereto, and prescribing qualifications of teachers. [Laws Mo. 1885, p. 243.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. That section 7077 of chapter 150 of the Revised Statutes of Missouri, entitled "of schools," be and the same is hereby amended by striking out all that part of said section after the word "government," in the fifth line thereof, and inserting in lieu thereof the following: "provided, always, that provision shall be made for instructing all pupils in every school in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants, and narcotics generally upon the human system: and

provided further, that after the first day of September, A. D. 1886, no certificate shall be granted to any person to teach in the public schools of this state, and no teacher shall thereafter be authorized to teach in the public schools of this state who shall not have passed a satisfactory examination in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants, and narcotics generally upon the human system," so that said section, as amended, shall read as follows :

Section 7077. [Qualifications necessary for certificate.]—No person shall be granted a certificate to teach in any of the public schools established under the provisions of this chapter who is not of good moral character, and qualified to teach orthography, reading, penmanship, arithmetic, English grammar, modern geography, history of the United States and civil government: provided, that if any patron of any public school in this state demands in writing that instruction in physiology and hygiene, with special reference to the effects of alcoholic drinks and stimulants and narcotics generally upon the human system, shall be given in the public school of which such person is a patron, then it shall be unlawful for the board of directors, or the board of education of such school district to exclude such instruction from such public school. But such instruction shall only be given to the child or children of such patron or patrons demanding the teaching of the same: and provided further, that after the first day of September, A. D. 1886, no certificate shall be granted to any person to teach in the public schools of this state, and no teacher shall thereafter be authorized to teach therein who shall not have passed a satisfactory examination in physiology and hygiene with special reference to the effects of alcoholic drinks, stimulants, and narcotics generally upon the human system.

Approved April 2, 1885.

CONTAGIOUS AND INFECTIOUS DISEASES.

AN ACT to repeal an act entitled "an act to prevent persons afflicted with any contagious or infectious disease from attending school," approved March 21, 1883, and to enact a new section in lieu thereof. [Laws Mo. 1885, p. 247.]

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. That an act entitled "an act to prevent persons afflicted with any contagious or infectious disease from attending school," approved March 21, 1883, be and the same is hereby repealed, and the following new section enacted in lieu thereof:

Section 2. It shall be unlawful for any child to attend any of the public schools of this state while afflicted with any contagious or infectious disease, or while liable to transmit such disease after having been exposed to the same. For the purpose of determining the diseased condition, or the liability of transmitting such disease, the teacher or board of directors shall have power to require any child to be examined by a physician or physicians, and to exclude such child from school so long as there is any liability of such disease being transmitted by the same. A refusal on the part of the parent or guardian to have an examination made by a physician or physicians, at the request of the teacher or board of directors, will authorize the teacher or board of directors to exclude such child from school; and any parent or guardian who shall persist in sending a child to school, after having been examined as provided by this section, and found to be afflicted with any contagious or infectious disease, or liable to transmit the same, shall be deemed guilty of a misdemeanor.

Approved April 3, 1885.

FROM THE

CONSTITUTION

OF THE

STATE OF MISSOURI

OF 1875.

ARTICLE II. — BILL OF RIGHTS.

In order to assert our rights, etc., we declare :

* * * * *

SECTION 21. Eminent domain — Compensation — That private property shall not be taken or damaged for public use without just compensation. Such compensation shall be ascertained by a jury or board of commissioners, of not less than three freeholders, in such manner as may be prescribed by law; and until the same shall be paid to the owner, or into court for the owner, the property shall not be disturbed or the proprietary rights of the owner therein divested. The fee of land taken for railroad tracks without consent of the owner thereof, shall remain in such owner subject to the use for which it is taken.

Public use — In a proceeding for the condemnation of land for a public school-house site under the statutes (Wagn. Stat., pp. 1244, 1247, §§ 12, 26; *Id.*, pp. 327-8, §§ 3, 4), the constitutionality of the law authorizing the condemnation was called in question (Const. 1865, Art. I., § 16) [See II. Mo. Rev. Stat. 1879, § 7051, p. 1388, § 7051 and I. Mo. Rev. Stat. 1879, ch. 21,

art. 6, and Const. 1875, art. 2, § 21]. It was urged that the appropriation of property for the use of a local school district is not for a *public use*, that the proposed use is local and limited, and not for the public generally. The court quoting Poland, J., in *Williams v. School District* (33 Vt. 271) says: "The use in the present case (that of a public school-house) has a more enlarged and liberal view. It is a benefit and advantage to the whole country that all the children should be educated, and thus, by means of educating the children in a single district, benefits the whole. To accomplish this great object of educating the whole, it becomes necessary that a great number of schools should be supported to make them accessible to all; but the principle remains the same as if all the children of the State could attend a single school; they are all but separate means to accomplish the same great and general benefit." It was therefore held that such an appropriation was for a public use. *Township Board, etc., v. Hackmann*, 48 Mo. 243.

ARTICLE IV. — LIMITATION ON LEGISLATIVE POWER.

* * * * *

SECTION 53. Special legislation prohibited — The General Assembly shall not pass any local or special law:

* * * * *

Regulating the affairs of counties, cities, townships, wards or school districts:

* * * * *

Erecting new townships, or changing township lines, or the lines of school districts:

* * * * *

Creating offices, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts:

* * * * *

Regulating the management of public schools, the building or repairing of school-houses, and the raising of money for such purposes:

* * * * *

Creating corporations, or amending, renewing, extending or explaining the charter thereof:

* * * * *

City of St. Louis, a School District — The City of St. Louis is a school district within the purview of a statute referred to, in the opinion of the Attorney of the Board. II. Off. Proc. 157.

The Board, a corporation — The Board of President and Directors of the St. Louis Public Schools is a corporation. Attorney's Opinions. See I. Off. Proc. 247, 348; II. Off. Proc. 59; III. Off. Proc. 67. See also *Eberle v. Board, etc., St. Louis Public Schools*, 11 Mo. 247. It is an actual as distinguished from a *quasi* corporation. *McLellan v. Board, etc., St. Louis Public Schools*, 15 Mo. App. 362. It is not a municipal corporation. *Heller v. Stremmel*, 52 Mo. 309.

ARTICLE VIII. — SUFFRAGE AND ELECTIONS.

* * * * *

SECTION 2. Qualifications of electors — Every male citizen of the United States, and every male person of foreign birth, who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections by the people :

First — He shall have resided in the State one year immediately preceding the election at which he offers to vote.

Second — He shall have resided in the county, city or town where he shall offer to vote, at least sixty days immediately preceding the election.

See City Charter and School Board Charter provisions on pages 11, 203 of this compilation.

SEC. 3. Rules for conducting elections — Contested elections — All elections by the people shall be by ballot; every ballot voted shall be numbered in the order in which it shall be received, and the number recorded by the election officers on the list of voters, opposite the name of the voter who presents the ballot. The election officers shall be sworn or affirmed not to disclose how any voter

shall have voted, unless required to do so as witnesses in a judicial proceeding: *Provided*, that in all cases of contested elections, the ballots cast may be counted, compared with the list of voters, and examined under such safe guards and regulations as may be prescribed by law.

* * * * *

SEC. 5. Registration — The General Assembly shall provide by law for the registration of all voters in cities and counties having a population of more than one hundred thousand inhabitants, and may provide for such registration in cities having a population exceeding twenty-five thousand inhabitants and not exceeding one hundred thousand, but not otherwise.

SEC. 6. Persons in representative capacity — All elections, by persons in a representative capacity, shall be *viva voce*.

Constitution binding — The Board of President and Directors of the St. Louis Public Schools is a corporation consisting of "all (free white) persons residing within the limits of the city of St. Louis, as they now are, or hereafter may be established by law." While it is created for specific limited purposes, those purposes are strictly public and political. The eighth article of the constitution purports to deal with public rights and public bodies only. And so far as it speaks of elections, its provisions cannot be lawfully disregarded in the conduct of School Board elections. Atty's Opinion, III. Off. Proc. 67.

Representative capacity — It [the constitutional provision referred to in last preceding note] applies to the directors of the Board of President and Directors of the St. Louis Public Schools. When they elect either men or measures they act in a public representative capacity, and are required to vote *viva voce*. Such an election by ballot is void; and a new election may be held at any time. Atty's Opinion, III. Off. Proc. 67.

ARTICLE X.—REVENUE AND TAXATION.

* * * * *

SECTION 5. Railroad corporations subject to taxation — All railroad corporations in this State, or doing business therein, shall be subject to taxation for State, county,

school, municipal, and other purposes, on the real and personal property owned or used by them, and on their gross earnings, their net earnings, their franchises, and their capital stock.

Railroads, taxation of — School taxes under the revenue law of this state (II. Mo. Rev. Stat. 1879, § 6880) [since repealed] cannot be levied on railroad property for building houses or for paying past indebtedness. Such levy can be made only for school purposes proper. "The legislature has not subjected the property of railroad companies to taxation for any other than 'school purposes' proper." *State ex rel. v. Wabash, etc., R. Co.*, 83 Mo. 395, 398.

Distribution of railroad taxes — The road-bed of a railroad is chiefly valuable as an entirety, and its subdivisions within the limits of a county, or a school district, are not to be treated as local property under the acts of 1875 for the assessment and distribution of railroad taxes (Acts 1875, p. 121, § 8; p. 129, § 12.) The school tax on such road-bed, apportioned to a county are properly distributed to the school districts therein in proportion that the number of school children in each district bears to the whole number in the county; and the act of 1875 providing for such distribution is not unconstitutional as giving a portion of the taxes levied upon property in one district to another (citing *State ex rel. v. Severance*, 55 Mo. 378, 388; *Washington County v. St. Louis, etc., R. Co.*, 58 Mo. 372, 376; *State ex rel. v. County Court of St. Louis County*, 34 Mo. 546; *School District, etc., v. Weber*, 75 Mo. 558; *State ex rel. v. Holladay*, 70 Mo. 137, and distinguishing *Wells v. City of Weston*, 22 Mo. 384). *In re Apportionment of Railroad School Tax*, 78 Mo. 596.

School tax — Railroads — Under the acts of 1877 (Laws of Mo. 1877, p. 365; Laws of Mo. 1875, amended) the fund arising from the taxation of railroads goes exclusively to the school districts in the townships only when such townships have made valid subscriptions to the railroads. When no such subscriptions have been made, the fund is distributed ratably among all the districts of the county, except that the taxes arising from the land, depots, workshops and other buildings, belonging to the railroads, shall go to the districts in which such property is situated (confirming *In re, etc., Railroad School Tax*, 78 Mo. 596). *School District, etc., v. Rhodes*, 81 Mo. 473.

Railroads taxed only in districts through which they pass — A person or corporation owning property in one school district is not taxed to support schools in any other district, though such other district may be in the same county. And a railroad should pay taxes only in the districts through which the road passes, or in which it owns property. *Livingston County v. Hannibal, etc., R. Co.*, 60 Mo. 516.

SEC. 6. Exemptions — The property, real and personal, of the State, counties and other municipal corporations, and cemeteries, shall be exempt from taxation. Lots in incorporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, may be exempted from taxation when the same are used, exclusively for religious worship, for schools, or for purposes purely charitable; also, such property, real or personal, as may be used exclusively for Agricultural or Horticultural Societies: *Provided*, That such exemptions shall be only by general law.

SEC. 7. Exemptions — All laws exempting property from taxation, other than the property above enumerated, shall be void.

See sections 6659 and 6664, [II. Mo. Rev. Stat. 1879, pp. 1304, 1306], for statutes providing for the enforcement of this section on pages 105, 144 of this compilation.

Liable for Special Taxes — This section has reference only to ordinary or general taxation for the purposes of revenue. *State ex rel. v. Linn County Court*, 44 Mo. 504. Under its charter the Good Samaritan Hospital was "exempted from taxation of every kind." *Held*, that the exemption did not cover special assessments against the property for improvements of the street fronting it. *Sheehan v. Good Samaritan Hospital*, 50 Mo. 155.

The real estate belonging to the Board of Public Schools of the city of St. Louis is liable to be assessed, under and by virtue of ordinances of the city of St. Louis, for the construction of sewers, paving, opening streets, etc. *Lockwood v. City of St. Louis*, 24 Mo. 20, affirmed by *St. Louis Public Schools v. City of St. Louis*, 26 Mo. 468.

Building partly used for schools — Under the eighth subdivision of the second section of Article 1 of the Revenue law of 1845 [Rev. Stat. 1845, p. 928] which exempts from taxation "school houses, and other buildings for the purposes of education, with their furniture and equipments and the lands appurtenant thereto and used therewith, so long as the same shall be used for that purpose," a building used partly for school purposes but a large part of which is used for other purposes, is not exempt in any part from taxation. There cannot be a separate

assessment for that portion which is used for other than school purposes. *Wyman v. City of St. Louis*, 17 Mo. 335.

Building partly used for schools — A school building was exempted by law from taxation "so long as it is used only for purposes of education." There were two stories to the building. The entire second floor, and a large part of the first were used and occupied in the conduct of the school, and two corner rooms on the first floor were let at a monthly rental for a saloon and store respectively.

This rental was applied and by the terms of its charter it must be applied to the expenses incurred in conducting the school. *Held*, that the entire property is exempt from taxation. The case is distinguished from that of *Wyman v. St. Louis* (17 Mo. 335), where the plaintiff derived a revenue for his personal benefit from the whole building, renting some stories of the building for store and concert halls, and occupying the third and fourth floors only for his private school. *North St. Louis Gymnastic Society v. Hudson*, 12 Mo. App. 342, citing *State ex rel. v. Powers*, 10 Mo. App. 263; s. c. 74 Mo. 476.

Where a building was used in part for a Masonic hall (claimed exempt from taxation under the charter of the hall association) and the first and second stories were leased to the Board of President and Directors of St. Louis Public Schools, to be used by it for school purposes, it was *held*, that as the building was not exclusively used either for Masonic or school purposes, but was used partly for each, the property was not exempt. "The different uses of the building do not make the property divisible for purposes of taxation. 'There is no mode pointed out by which part of a house can be assessed and not the remainder.' (*Wyman v. City of St. Louis*, 17 Mo. 337.) Whether when a building is used for several purposes, each creating an exemption when applied to an exclusive use, a general exemption will follow — *quære* *State ex rel. Hudson v. Central St. Louis, etc., Association*, 14 Mo. App. 597, No. 2610.

* * * * *

SEC. 11. Rates of taxation for local purposes — Valuation — Taxes for county, city, town and school purposes, may be levied on all subjects and objects of taxation; but the valuation of property therefor shall not exceed the valuation of the same property in such town, city or school district for State and county purposes. * * * For school purposes in districts, the annual rate on property shall not exceed forty cents on the hundred dollars valuation: *Provided*, The aforesaid annual rates for school purposes may be increased in districts formed of cities and towns,

to an amount not to exceed one dollar on the hundred dollars valuation; and in other districts to an amount not to exceed sixty-five cents on the hundred dollars valuation, on the condition that a majority of the voters who are taxpayers, voting at an election held to decide the question, vote for said increase. For the purpose of erecting public buildings in counties, cities or school districts, the rates of taxation herein limited may be increased when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and two-thirds of the qualified voters of such county, city, or school district, voting at such election shall vote therefor. The rate herein allowed to each county shall be ascertained by the amount of taxable property therein, according to the last assessment for State and county purposes, and the rate allowed to each city or town by the number of inhabitants, according to the last census taken under the authority of the State, or of the United States; said restrictions, as to rates, shall apply to taxes of every kind and description, whether general or special, except taxes to pay valid indebtedness now existing or bonds which may be issued in renewal of such indebtedness.

See Article XI., section 7 of State Constitution, "DEFICIENCY IN SCHOOL FUNDS — STATE REVENUE," referring to this section, on page 190 of this compilation.

The St. Louis School Board comes within the intention and meaning of this section and is limited to the amount of four mills on the dollar, so far as taxation for current expenses is concerned, and to one mill on the dollar to pay existing indebtedness. Atty's Opinion, III. Off. Proc. 350.

Preferred debt — Section 7, article VII. of the school law of 1855 (R. C. 1855, p. 1440), giving a preference to the debt owing by any officer or other person to the school fund is not unconstitutional. *Cass County v. Jack*, 49 Mo. 196.

Increase of school tax — "The annual rate for *school purposes* may be increased if a *majority* of voters who are taxpayers, voting at an election held to decide that question, vote for said increase. The rate of taxation for the *purpose of erecting public buildings in school districts* may be in-

creased if *two-thirds* of the qualified voters of such school district voting at such election shall vote therefor." *State ex rel. v. Wabash, etc., R. Co.*, 83 Mo. 395, 397.

Constitutional provision for increase of school taxes not self-enforcing — On the 11th day of April, 1876, the Moberly Board of Education submitted to the people of their school district the question of making a levy of one per cent for the year 1876, upon all the property therein, to be used in the construction of a public school building. From the returns of that election it appeared that two-thirds of the qualified voters had voted in favor of the proposition. The levy was thereupon made. Section 11, article 10, of the Constitution of 1875 provides that: "For the purpose of erecting public buildings in * * * school districts, the rate of taxation herein limited may be increased when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and two-thirds of the qualified voters * * * of such school district voting at such election shall vote therefor." *Held*, that the provision of the Constitution required legislation to enforce it, and that as there was none such until May 24, 1877 (Acts 1877, p. 405), the levy of 1876 and all subsequent proceedings were illegal and void. *State ex rel. v. St. Louis, etc., R. Co.*, 74 Mo. 163.

Increase of school taxes — Notice — After the adoption of the Constitution of 1875, and until the passage of the act of March 24, 1877, no authority existed for levying taxes for school purposes, in districts, exceeding forty cents on the \$100 of the valuation (citing *St. Joseph, etc., Schools v. Patten*, 62 Mo. 444, 450; *State ex rel. v. Holladay*, 66 Mo. 385, 387; *State ex rel. v. St. Louis, etc., R. Co.*, 74 Mo. 163). Fifteen days notice must be given of any election held under that act for the purpose of authorizing a tax exceeding forty cents on the \$100 valuation. "In the case of *McPike v. Pen.* (51 Mo. 64) upon a question involving necessity for notice of an election, although in that case the statute authorizing the county court to order an election, was silent as to notice, it was held that the necessity that the notice be given is so controlling — such an essential part in the machinery of an election, that the irregularity in not giving it was fatal." *State v. St. Louis, etc., R. Co.*, 75 Mo. 526, 528.

Procedure — There is no equity to restrain by injunction the collection of a school tax, the assessment of which is void. If the assessment be void, it will not protect the officer, nor will a sale divest the owner of his property. The money can be fully compensated for at law. In this case personal property was sought to be sold for taxes. *Sayre v. Tompkins*, 23 Mo. 443.

Procedure — Where school property is illegally taxed injunction is the proper remedy to prevent the sale of such property whereby a cloud would be cast upon the title. *North St. Louis Gymnastic Society v. Hudson*, 12 Mo. App. 342.

Injunction to restrain sale of land for taxes — "The court has uniformly enjoined the sale of lands for the payment of taxes, upon the ground that a cloud is thereby cast upon the title, although the assessment was illegal" (citing *Lockwood v. St. Louis*, 24 Mo. 20; *Fowler v. St. Joseph*, 37 Mo. 228; *Leslie v. St. Louis*, 47 Mo. 474). *Bliss, J.*, in *McPike v. Pen*, 51 Mo. 62.

Procedure — The failure of a tax payer to take steps to prevent an illegal levy of taxes, will not estop him from resisting the enforcement of the tax when levied against his property. *State ex rel. v. St. Louis*, etc., *R. Co.*, 74 Mo. 163.

Procedure -- *Mandamus* will lie to compel the county clerk to assess the school taxes of a district on the taxable property therein according to its legal limits (citing *State ex rel. v. Byers*, 67 Mo, 706) *State ex rel. v. Riley*, 85 Mo. 156.

Procedure — The remedy by injunction in the name of the State does not lie against a board of education to prevent the collection of a tax to be levied by the board, the validity of which is disputed on the ground that the board has no corporate existence, nor to prevent the collection of one which has been extended on the tax books and placed in the hands of the collector. The remedy in the latter case is injunction in the name of the taxpayer against the collector. *Ewing v. Board*, etc., of *Jefferson City*, 72 Mo. 436.

SEC. 12. Municipal and school indebtedness limited — No county, city, town, township, school district or other political corporation or subdivision of the State, shall be allowed to become indebted in any manner or for any purpose to an amount exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters thereof voting at an election to be held for that purpose; nor in cases requiring such assent shall any indebtedness be allowed to be incurred to an amount including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for State and county purposes, previous to the incurring of such indebtedness: *Provided*, That with such assent any county may be allowed to become indebted to a larger amount for the erection of a court-

house or jail: *And provided further*, That any county, city, town, township, school district, or other political corporation, or subdivision of the State, incurring any indebtedness, requiring the assent of the voters as aforesaid, shall, before or at the time of doing so, provide for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for payment of the principal thereof, within twenty years from the time of contracting the same.

Applicable to St. Louis School Board— See Attorney's Opinion, where he states that the city of St. Louis is a school district within the purview of a statute there referred to. II. Off. Proc. 157.

Applicable to St. Louis School Board— The Board is a corporation created for strictly public and political purposes. Atty's Opinion, III. Off. Proc. 67. See, also, Atty's Opinion, I. Off. Proc. 247, 347; II. Off. Proc. 59; *Eberle v. The Board, etc.*, 11 Mo. 247. It is an actual as distinguished from a *quasi*-corporation. *McLellan v. The Board, etc.*, St. Louis Public Schools, 15 Mo. App. 362. But see *Heller v. Stremmel*, 52 Mo. 309.

* * * * *

SEC. 17. Speculation in public funds— The making of profit out of State, county, city, town or school district money, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

SEC. 18. State board of equalization— There shall be a State Board of Equalization consisting of the Governor, State Auditor, State Treasurer, Secretary of State and Attorney General. The duty of said board shall be to adjust and equalize the valuation of real and personal property among the several counties in the State, and it shall perform such other duties as are or may be prescribed by law.

* * * * *

ARTICLE XI. — EDUCATION.

SECTION 1. Public Schools— Persons of school age — A general diffusion of knowledge and intelligence being

essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of six and twenty years.

SEC. 2. Disbursement of school funds — Certain districts not entitled to — The income of all the funds provided by the State for the support of free public schools shall be paid annually to the several county treasurers to be disbursed according to law ; but no school district, in which a free public school has not been maintained at least three months during the year for which the distribution is made, shall be entitled to receive any portion of such funds.

SEC. 3. Schools for colored children — Separate free public schools shall be established for the education of children of African descent.

SEC. 4. Board of Education — The supervision of instruction in the public schools shall be vested in a “ Board of Education,” whose powers and duties shall be prescribed by law. The Superintendent of Public Schools shall be President of the Board. The Governor, Secretary of State and Attorney General shall be *ex-officio* members, and with the Superintendent, compose said Board of Education.

The limit was twenty-one years, under Constitution of 1865, Art. IX., § 1.

For proposed amendment of this section fixing the school age at five instead of six years, see V. Off. Proc. 306, 312.

School age — “Common schools” defined — The Board of President and Directors of the St. Louis Public Schools has control over its school funds unaccompanied by any conditions as to the kind of schools which it shall maintain, or the character and nature of the studies which it shall prescribe or allow. In the legislation of this State the phrase “common schools,” means schools open and public to all, rather than schools of any definite grade, and the term “school,” by and of itself does not apply a restriction to the rudiments of an education.

The first section of article 10 of the Constitution of 1875 requires instruction to be given gratuitously to all persons in the State between

the ages of six and twenty years. The sixth section declares that the public school fund "shall be faithfully appropriated for establishing and maintaining the free public schools * * * in this article provided for and for no other uses and purposes whatever."

Held, that the two sections construed together, require free public schools for all persons between the ages of six and twenty years, but prohibit gratuitous instruction from public school fund to children under the age of six years. *Roach v. The Board, etc., of St. Louis Public Schools*, 77 Mo. 484, reversing in part s. c. 7 Mo. App. 567.

For opinion of the Attorney of the Board and of other attorneys on this subject, see III. Off. Proc. 30-32. For extracts from St. Louis Court of Appeals' decision in above mentioned case, and the Attorney's opinion thereon, see III. Off. Proc. 446.

Board not authorized to instruct persons not of school age for pay—The Attorney of the Board submits his opinion that under a proper construction of the decision of the Supreme Court in the case of *Roach v. The Board of President and Directors of the St. Louis Public Schools*, the "Board is not authorized for pay to instruct pupils below the age of six years in its kindergartens, or pupils above the age of twenty years in its evening schools." V. Off. Proc. 56.

Colored schools—In Constitution of 1865, Art. IX., § 2, the language was: "Separate schools may be established for children of African descent."

The Attorney of the Board, in an opinion delivered September 14, 1875, holds that the word "may" in the Constitution of 1865 must be interpreted so that the establishment of *separate* schools for colored children shall be mandatory. He also states that the legislature has passed two Acts bearing on the subject, and quotes the Act of January 14, 1866, and the act amending it, approved March 17, 1875. [See the latter, which contains the amended Act in full on page 53 of this compilation. See also Acts of 1883, pages 149, 150.] "It thus appears," says the Attorney, "that the law imposes upon this Board the obligation to provide for and maintain a separate high school for colored children in this city, and that a total discontinuance of such school is not within the legal power of the Board. That on the other hand, while the colored people may enforce the maintenance of such separate high school by appropriate legal proceedings, the Board cannot be forced to admit colored children into the Central or Branch High School in any event." II. Off. Proc. 59.

SEC. 5. State University—The General Assembly shall, whenever the Public School Fund will permit, and the actual necessity of the same may require, aid and maintain the State University now established with its

present departments. The government of the State University shall be vested in a Board of Curators, to consist of nine members, to be appointed by the Governor, by and with the advice and consent of the Senate.

SEC. 6. School fund—The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; also, all moneys, stocks, bonds, lands and other property now belonging to any State fund for purposes of education; also, the net proceeds of all sales of lands and other property and effects that may accrue to the State by escheat, from unclaimed dividends and distributive shares of the estates of deceased persons; also any proceeds of the sales of the public lands which may have been or hereafter may be paid over to this State (if Congress will consent to such appropriation); also, all other grants, gifts or devises that have been, or hereafter may be made to this State, and not otherwise appropriated by the State or the terms of the grant, gift or devise, shall be paid into the State Treasury, and securely invested and sacredly preserved as a Public School Fund; the annual income of which fund, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining the free public schools and the State University in this Article provided for, and for no other uses or purposes whatsoever.

SEC. 7. Deficiency in school funds—State revenue—In case the Public School Fund now provided and set apart by law, for the support of free public schools, shall be insufficient to sustain a free school at least four months in every year in each school district in this State, the General Assembly may provide for such deficiency in accordance with section eleven of the Article on Revenue and Taxation; but in no case shall there be set apart less

than twenty-five per cent. of the State revenue, exclusive of the Interest and Sinking Fund to be applied annually to the support of the public schools.

School fund—Preservation of, policy of the law—“The sixteenth sections are by law set apart, for a purpose the most laudable. The law is so mindful of the interest which after generations have in those lands, as to make their preservation from waste, the subject of special legislation, and to constitute all civil officers a committee of vigilance to protect them and bring to punishment all persons trespassing thereon. The judges of the circuit courts are required to direct the attention of the grand juries specially, to the subject, and the grand juries are enjoined, diligently, to inquire into all offenses committed on these lands and present the offenders;” McBride, J., *State v. Roberts*, 11 Mo. 510, 512.

School-funds—In response to a resolution of the Board of August 8, 1876, the Attorney reported all sources of revenue settled upon the St. Louis Public Schools by municipal, State or Federal laws, stating the periods when payments mature, and what security the Public Schools have for their final collection. II. Off. Proc. 157.

The Attorney's opinion, designating each fund into which the receipts of the Board pass, under what law or resolution created, for what purpose and in what manner each can be expended, and to what extent each is under control of the Board, will be found in III. Off. Proc. 349.

See section 11, Article X., on “Revenue and Taxation” referred to in section 7 above on page 190 of this compilation.

Section eight of article nine of Constitution of 1865 amounts to a mandate to the legislature to provide the means of sustaining a free school in each district in the State at least four months in each year, but does not prohibit a larger provision. *State ex rel. v. Miller*, 65 Mo. 50.

SEC. 8. County school fund—All moneys, stocks, bonds, lands and other property belonging to a county school fund; also, the net proceeds from the sale of estrays; also the clear proceeds of all penalties and forfeitures, and of all fines collected in the several counties for any breach of the penal or military laws of the State, and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to, and be securely invested and sacredly preserved in the several counties, as a county public school fund; the income of which fund shall

be faithfully appropriated for establishing and maintaining free public schools in the several counties of this State.

Penalties and forfeitures — The clear proceeds of all penalties and forfeitures collected within this county belong under this section to the county school fund and the interest of the School Board in such net proceeds is more than eighteen-twentieth parts. Atty's Opinion, II. Off. Proc. 282. See, also, resolution of the Board, II. Off. Proc. 295.

Trust fund — It seems that the portion of the fund that formerly belonged to the county school capital of St. Louis county, and came into possession of the St. Louis School Board is impressed with a trust by the State Constitution. It is in the nature of a trust fund, only the income of which can be used. Atty's Opinion, III. Off. Proc. 180. See, also, Atty's Opinion, III. Off. Proc. 349.

SEC. 9. Investment of Public School Fund — No part of the Public School Fund of the State shall ever be invested in the stock or bonds, or other obligations of any other State, or of any county, city, town or corporation; and the proceeds of the sales of any lands or other property which now belong, or may hereafter belong to said school fund, shall be invested in the bonds of the State of Missouri, or of the United States.

SEC. 10. Investment of County School Fund — All county school funds shall be loaned only upon unencumbered real estate security, of double the value of the loan, with personal security in addition thereto.

Under the Constitution of 1865, Art. IX., § 6, the School Fund could be invested only in the bonds of the United States.

Investment of funds — Section 6, of an act approved March 5, 1866, provided that the purchase money arising from the sale of certain stock of the Bank of the State of Missouri, belonging to the State might be paid in bonds and coupons of the State; *held*, that this was not necessarily an investment in either State bonds or obligations. *State v. Bank of the State of Missouri*, 45 Mo. 528.

Investment of funds — "With reference to the ninth and tenth sections of article 11, of the Constitution, there is no question, but that the ninth section, providing for the investment in bonds of this State or the United States only, and which prevents the investment of the fund in county,

city, or township bonds, applies to the public school fund of the State alone. It says so definitely, and the distinction between the public school fund of the State, and that of the counties is clearly and distinctly shown by the sixth and eighth sections preceding. There is no question that, under the tenth section, if the Board undertakes to loan any of the fund which formerly belonged to the county school fund, it must be loaned only on unincumbered real estate worth double the amount loaned, with personal security in addition. I don't think the tenth section limits the investment to such loans; but if it is loaned it must be loaned in that way. I see nothing preventing the investment of those funds in registered bonds of the City of St. Louis, or any other bonds." Atty's Opinion, III. Off. Proc. 180.

Security for loans — A mortgage given to a county to secure the loan of school money is not void because it is a second mortgage, by reason of the statute (II. Rev. Stats. 1879, § 7110), providing that such loans shall be upon real estate free from all liens and incumbrances; the object of the statute is to secure such loans, and not to destroy such security as may be taken. *Sharp's Admr. v. Collins*, 74 Mo. 266.

The county court has power to release a mortgage taken as security for school funds, upon receiving in its place a mortgage upon other lands, provided the change can be made without detriment to the fund. The sureties in the bond which the law requires to be taken as additional security, will not be relieved of liability by reason of the change, though made without their knowledge, except to the extent to which they may be injured by it. *Lafayette County v. Hixon*, 69 Mo. 581.

A statute prescribing how mortgages for the security of the loan of school money shall be conditioned (Rev. Stats. 1855, p. 1424, § 22), is thus construed by the Supreme Court: "We consider the 22d section of the act of 1855, as merely directory. It specifies the kind of mortgage which the court is required to take, and is so particular as to give in substance all the provisions it should contain. Where the mortgage is taken under these provisions, the statute must be in all respects complied with; but we do not see that the interest of the school fund would be advanced by holding that any other mortgage, which would be good at common law, should be held void." *Mann v. Best*, 62 Mo. 491, 495.

Security for loans — The failure of the county court to take a mortgage in fee, on real estate, free from all liens and incumbrances, to secure the payment of school money loaned, as required by the act for the organization and support of common schools, does not discharge the surety. *Marion County v. Moffett*, 15 Mo. 604.

Sale of school bonds — A board of education sold its bonds at ninety cents on the dollar, the purchaser charging and retaining out of the proceeds one per cent as a commission on the sale. A statute prohibited the

bonds being sold at less than ninety cents on the dollar. *Held*, that this transaction was no violation of the statute. *Franklin, etc., Institution v. Board, etc., of Roscoe*, 75 Mo. 408.

SEC. 11. Schools for religious or sectarian purposes — Neither the General Assembly, nor any county, city, town, township, school district or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, any thing in aid of any religious creed, church or sectarian purpose; or to help to support or sustain any private or public school, academy, seminary, college, university or other institution of learning, controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any county, city, town or other municipal corporation, for any religious creed, church or sectarian purpose whatever.

ARTICLE XII. — CORPORATIONS.

SECTION 2. Shall not be created by special laws — No corporation, after the adoption of this Constitution, shall be created by special laws; nor shall any existing charter be extended, changed or amended by special laws, except those for charitable, penal or reformatory purposes, which are under the patronage and control of the State.

ARTICLE XIV. — MISCELLANEOUS.

SECTION 1. Disposal of soil by United States — The General Assembly of this State shall never interfere with the primary disposal of the soil by the United States, * * *

See note "*Miscellaneous*," to Act of Congress of March 6, 1820 [3 U. S. Stats. at Large, 545], page 233 of this compilation.

ORDINANCE

OF

CONVENTION OF 1820.

AN ORDINANCE, DECLARING THE ASSENT OF THE PEOPLE OF THE STATE OF MISSOURI, BY THEIR REPRESENTATIVES IN CONVENTION ASSEMBLED, TO CERTAIN CONDITIONS AND PROVISIONS IN THE ACT OF CONGRESS OF THE SIXTH OF MARCH, ONE THOUSAND EIGHT HUNDRED AND TWENTY, ENTITLED, “AN ACT TO AUTHORIZE THE PEOPLE OF MISSOURI TERRITORY TO FORM A CONSTITUTION AND STATE GOVERNMENT, AND FOR THE ADMISSION OF SUCH STATE INTO THE UNION ON AN EQUAL FOOTING WITH THE ORIGINAL STATES, AND TO PROHIBIT SLAVERY IN CERTAIN TERRITORIES.” [Signed July 19, 1820, to be found prefixed to I. Mo. Rev. Stat. 1879, p. xlix], contains the following :

Preamble—WHEREAS, The act of Congress of the United States of America, approved March the sixth, one thousand eight hundred and twenty, entitled, “An act to authorize the people of Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain territories,” contains certain requisitions and provisions, and among other things, has offered to this Convention, when formed, for and in behalf of the people inhabiting this state, for their free

(195)

acceptance or rejection, the five following propositions : and which, if accepted by this convention in behalf of the people, as aforesaid, are to be obligatory on the United States, viz :

Sixteenth section — *First.* That section numbered sixteen in every township, and when such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the state, for the use of the inhabitants of such township for use of schools. [Here follow four other propositions not affecting schools.]

Acceptance of propositions — NOW, THIS CONVENTION for and in behalf of the people inhabiting this State, and by the authority of the said people, DO ACCEPT the five before recited propositions, offered by the act of Congress under which they are assembled ; * * *

See act of Congress of March 6, 1820, authorizing formation of State on the acceptance of certain propositions on page 232 of this compilation.

FROM THE

S C H E M E

FOR THE

SEPARATION AND REORGANIZATION

OF THE

CITY AND COUNTY OF ST. LOUIS.

* * * * *

SEC. 36. **School property in districts intersected by city limits** — In all cases where the limits of the city of St. Louis, as herein extended, include a part only of any school district, the following shall be the mode of adjustment as to property held by or for the use or benefit of such district: First, where the part of such district, included within such extended limits, contains any school house or other real estate belonging to the district, the board of president and directors of the St. Louis public schools shall pay into the county treasury of St. Louis county, for the use of that part of the district not so included, such proportion of the valuation of said school property as the taxable value of property in the part of such district not so included bears to the taxable value of all property in such district, as constituted before such extension; second, where the part of such district, not included within such extended limits, contains any school house or other real estate belonging to the

district, the inhabitants of the district not so included shall pay to the board of president and directors of the St. Louis public schools such proportion of the valuation of said school property as the taxable value of property in the part of such district included within the city limits bears to the taxable value of all property in such district, as constituted before such extension. The valuation of school property mentioned in this section shall be made by arbitrators, one of whom shall be selected by the board of president and directors of the St. Louis public schools, and one by the directors of the school district affected, who, if disagreeing, may select a third; or, if unable to agree on the selection of such third arbitrator, any school director, or member of the board of president and directors of the St. Louis public schools, may apply to the circuit court of the eighth judicial circuit to appoint one. A report of the valuation made by such arbitrators, or a majority thereof, shall be filed as soon as practicable in the clerk's office of the circuit court of the eighth judicial circuit. Any money to be paid to the board of president and directors of the St. Louis public schools shall be provided for by the assessment, levy and collection of a special tax on all taxable property within such districts not so included.

Arbitration — "The thirty-sixth section of the scheme provides for a valuation of school property by arbitrators in all cases where the limits of the city of St. Louis, as extended, include a part only of any school district, in order to obtain an adjustment between this Board and such districts, part of such arbitrators to be appointed by this Board." Atty's Report, II. Off. Proc. 198.

SEC. 37. Title vested in St. Louis Board of Public Schools — All property, real, personal or mixed, of every kind and description, and the evidence of title thereto, now held by the county of St. Louis, or by the county court of St. Louis county, in trust or for the use of the inhabitants of township forty-five, north, of range seven, east, for

school purposes, and all such property, and the evidences of title thereto, held by any public officer for the use of any school district in said township, or held by or for the benefit of any such district, shall, as soon as this scheme goes into effect, pass and be delivered to the board of president and directors of the St. Louis public schools; and the title to any and all such property shall, by operation hereof, vest in said board.

Transfer of property -- "The thirty-seventh section provides for the transfer of all property, real, personal and mixed, within the extended limits, held for school purposes, either by the county of St. Louis or the county court of St. Louis, or any public officer, to the Board of President and Directors of the St. Louis Public Schools." Atty's Report, II. Off. Proc. 198.

SEC. 38. Enumeration of children, etc. — The board of president and directors of the St. Louis public schools shall, forthwith after this scheme goes into effect, cause an enumeration to be taken of all children within school ages within in the limits of the city of St. Louis, as herein established, and the county court of St. Louis county shall cause forthwith a similar enumeration to be taken within the county of St. Louis, outside of the city limits, as herein established, showing the enumeration in each school district and fractional school district separately, a correct report of which enumeration shall be filed by said board and said court respectively, in the clerk's office of the circuit court of the eighth judicial circuit, within sixty days after this scheme and charter go into operation. So much of all property of every nature whatsoever, and the evidences thereof, belonging to the school fund of St. Louis county, or of congressional townships affected by the extension of the present city limits, as, according to such enumeration, falls to the share of the district lying within the limits of the city of St. Louis, shall at once pass and be delivered by the county court of St. Louis county, or public officers in

charge thereof, to the board of president and directors of the St. Louis public schools, and the residue of all said property and the evidences thereof shall pass and be delivered by the present county court of St. Louis county, or public officers in charge thereof, to the proper authorities of the county of St. Louis, as constituted by this scheme. From and after the date this scheme goes into operation all public officers within the city of St. Louis shall account for and pay over to the board of president and directors of the St. Louis public schools, all fines and penalties and other moneys collected within said city, and heretofore payable into and forming part of the county school fund of St. Louis county.

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Distribution of School fund, etc. — "Section 38 provides for an enumeration to be made by this Board of all children within school ages within the limits of the city of St. Louis, as extended, forthwith after the Scheme goes into effect, for the purpose of securing a rateable distribution of the county school fund, and further provides that from and after the date the Scheme goes into operation, all public officers within the city of St. Louis shall account for and pay over to the Board of President and Directors of the St. Louis Public Schools all fines, penalties, and other moneys collected within said city, and heretofore payable into and forming part of the county school fund of St. Louis county." Atty's Report, II. Off. Proc. 198.

FROM THE

CHARTER OF THE CITY OF ST. LOUIS.

ARTICLE I. — WARD BOUNDARIES.

* * * * *

General effect of city charter—The Attorney reports to the Board the effect of the Scheme and Charter of the City of St. Louis upon the interests of the School Board, as follows:

“The charter of this Board remains intact, except in so far as it became necessary to effect changes therein in order to make it harmonize with the proposed charter of the city.

“The changes are in the main the following:

“1. The Board will consist of one member from each ward instead of two, as heretofore. As by the proposed charter the number of wards more than doubled, with a corresponding diminution in their population, the representation in this Board will remain substantially the same as heretofore.

* * * * *

“2. As the charter election of the city, under the proposed charter, occurs only once in two years, the election for members of this Board has been entirely severed from the city charter election, and has been fixed for the first Tuesday in October in each year, excepting the present (1876).

“3. In order to protect residents in the outlying districts from taxation in excess of the amounts needed for carrying on the education of children resident within the extended limits, the Board is authorized and directed in case the tax levied on property within said district is greatly in excess of the amount thus needed to remit such excess.

“All of these provisions will be found in article 13 of the proposed charter, which article contains all the proposed modifications of the charter of this Board.

“Ample provision has also been made for the immediate transfer of all school property in the extended limits, of every nature whatsoever and howsoever held, to this Board, and for the adjustment of all property rights between this Board and School Districts, part of which only are

included within the city by the proposed extension of its limits. These provisions will be found in 36, 37 and 38 of the Scheme, and are deemed adequate to meet any contingency that may arise." Atty's Report, II. Off. Proc. 141.

Funds affected by scheme and charter--The attorney reports May 14, 1878, that the Scheme and Charter went into effect on October 21, 1876, but were not declared adopted until December 29, 1876. The funds and property in which the Board and other school corporations in the late county of St. Louis were jointly interested consisted of:

1. Money in the hands of the late County Collector.
2. Money in the hands of the late County Treasurer.
3. School funds loaned by the County Court belonging to the County School Capital.
4. Money loaned by the County Court, belonging to the various townships affected by the extension of the city limits.
5. Real estate bought in the County Court on the foreclosure of forfeited school loans for the benefit of the various school funds.
6. School-houses belonging to such school districts as were by the extension of the limits cut into two parts, one lying inside and the other outside of the extended limits.

The division of the property in the 1st, 3d and 4th classes has been accomplished. For a statement of which see II. Off. Proc., pp. 208, 211, 212, 219, 222, 250, 251, 272, 277, 278, 279, 282, 291, 310 and 422 and also III. Off. Proc., pp. 25, 41 and 42.

The second class consists of property reported by the late County Treasurer for which a judgment on his bond for the penalty and \$14,-337.90 damages was obtained.

The division of property mentioned in the 5th and 6th classes is in course of being made. Atty's Report, III. Off. Proc. 58. See also Report of JOINT COMMITTEE OF LANDS AND CLAIMS AND LEASING. III. Off. Proc. 160.

SEC. 4. Correction of ward limits—The municipal assembly shall, every five years after the adoption of this charter, establish corrected ward limits, which correction shall be made as near as practicable so as to equalize the number of registered voters in each ward; but in making the division the present eastern and western boundaries of wards as herein established shall be retained, so that Rosatti, Twelfth and Eleventh streets, Jefferson avenue and the present city limits shall remain division lines.

See Act re-establishing ward limits, on page 66 of this compilation.

ARTICLE II. — ELECTION AND REGISTRATION.

See provisions of State Constitution, article VIII., and note thereto (III. Off. Proc. 67), on page 179 of this compilation. See also section 3 of School Board Charter on page 11 of this compilation.

* * * * *

SEC. 2. Elections to be by ballot — At all elections for executive officers electors shall vote by ballot, printed or written on a piece of white paper, with the names of the persons voted for and a designation of the office intended to be filled. Said ballot shall not bear upon it any device whatever, nor shall there be any writing or printing thereon, except names of persons and the designation of the office to be filled, and the number of the ballot placed thereon by the judges of election, leaving a margin on either side of the printed matter for substituting names, and a plain written or printed caption thereon, composed of not more than three words expressing its political character; but on all such ballots the said caption or heading shall not in any manner be designed to mislead the voter as to the name or names thereunder. Any ballot not conforming to the provision of this section shall not be counted. The electors shall vote only in the precinct wherein they respectively reside. Such election shall continue for one day only; the polls shall be opened at six o'clock in the morning and be kept open until seven o'clock in the evening, and during the day they shall not be closed under any pretense whatever. Special elections to fill vacancies shall be held under such regulations, not inconsistent with this article, as may be provided by ordinance.

SEC. 3. Qualifications of electors — Every male citizen of the United States, and every person of foreign birth who may have declared his intention to become a citizen of the United States, according to law, not less than one year nor more than five years before he offers to vote, who is over

the age of twenty-one years, who has resided in this state one year next preceding the election at which he offers to vote, and during the last sixty days of that time shall have resided in the city of St. Louis, and during the last ten days of that time in the district at which he offers to vote, who has not been convicted of bribery, perjury, or other infamous crime, nor directly interested in any bet or wager depending upon the result of the election, nor serving in the United States army, shall be entitled to vote at such elections for all officers, state or municipal, made elective by the people, or at any other election held in pursuance of the laws of this state; but shall not vote elsewhere than in the district where his name is registered, and where he is registered as a resident.

SEC. 4. Duty of register — The register shall provide a suitable registration book for each election district in the city, which shall have written or printed therein the following oath: “We, the undersigned, do solemnly swear (or affirm) that we will support the constitution of the United States and the state of Missouri; and we do furthermore swear (or affirm) that we have not registered in any other election district; that we and each of us have given our true name and place of residence as hereto subscribed.”

* * * * *

SEC. 7. Persons entitled to registration — Every person having the qualifications of a voter, as prescribed in the third section of this article, and who shall take and subscribe the oath required of voters by the fourth section of this article, and every naturalized citizen who shall subscribe to a written statement under oath before the said recorder of voters that he is naturalized according to the laws of the United States and of this state, and has resided in this state and in said city, as required in the third section of this article, and that his naturalization papers, or evidence of his

citizenship, have been lost or destroyed, or that the same are not accessible to him, and the place where he was naturalized, who shall apply for registration thirty days before a general election, shall be accepted by the recorder and duly registered as a qualified voter in the registration book belonging to the election precinct or district in which he resides; provided, that every person entitled to register, who, from absence, sickness or other good and sufficient reason, shall fail to register as above, may at any time not less than ten days before any state or city election, be registered as a voter: provided further, that any person where he offers to vote may be challenged as disqualified by any person who is an elector of this state; and it shall be the duty of the judges of the election of such precinct to try and determine in a summary manner, before the close of the polls, the qualification of any person challenged as aforesaid, and upon proof that the person so challenged is not a qualified voter, the judges of election shall reject his vote, and they shall state opposite his name on the registered list of voters the nature of his disqualification, and the names of the witnesses upon whose testimony his vote was rejected; but the vote of no person who may be challenged shall be rejected except upon the testimony of two credible witnesses. The party challenging the right of any person to vote shall make oath before the judges of election at the time of challenging the vote that, to the best of his knowledge and belief, the party (naming him) is not a qualified voter under this article, and shall also swear to the reasons that disqualify him from voting, which statement shall be supported by the sworn statement of another credible witness. The ballot of such person so rejected shall be preserved and returned with the books and other ballots in a separate envelope marked "rejected ballots," and the register shall preserve the same in his office; and the judges of the election shall (if, in their judgment, the

public interests require it), report the name of the person whose vote was rejected, together with the names of and residences of the persons upon whose testimony the same was rejected, to the prosecuting attorney of the St. Louis court of criminal correction, or any other court of competent jurisdiction, who shall thereupon proceed against such persons as the case may require.

* * * * *

SEC. 22. Elections subject to general statutes — All elections in this city shall be conducted in all respects as provided in this article, and subject to all the provisions of the general statutes entitled “of elections,” so far as the same do not conflict with this article, and to an act entitled “an act to provide for the punishing of persons for giving or receiving any money or valuable thing to be used for electioneering purposes,” approved March eighteenth, eighteen hundred and seventy-four.

See this Act above referred to on page 131 of this compilation.

Qualification of electors — “The qualification of electors as defined by the charter of the Board has become impracticable, as the constitutional provisions on which such qualification was dependent have been repealed. It may be assumed, therefore, that the above qualification contained in the City Charter [section 3, article II., City Charter, section 1, article XIII. is also quoted] are the only qualifications now prescribed for the electors of this corporation.

“It will be seen that no elector can vote elsewhere than in the district where his name is registered as a resident.

“The charter of the Board gives to it power ‘to prescribe the time, place and manner of conducting the election of members of said Board,’ in the several wards of the city, and I have no doubt that the Board by virtue of this power, if it deems proper, may for the purpose of expediency or economy, throw several election precincts into one and thus form new election districts.” Atty’s Opinion, II. Off. Proc. 328.

* * * * *

ARTICLE V. — REVENUE AND TAXATION.

SEC. 15. Board of assessors — The city of St. Louis shall be assessed, in accordance with the general laws, by

a board of assessors, consisting of a president of the board, to be elected by the qualified votes of the city, and one assessor from each assessment district, who shall be appointed by the mayor and confirmed by the council, and the municipal assembly shall lay off the city into convenient assessment districts, and shall have power to alter and change the same, as necessity or convenience may require.

SEC. 16. Bonds of assessors, etc. — The president of the board and each of the district assessors, before entering upon their official duties, shall give bond and security to the state, to the satisfaction of the mayor, with three or more solvent securities, freeholders of the city; the said president in a sum not less than twenty thousand dollars, and the said district assessors each in a sum not less than two thousand dollars, the amount to be fixed by ordinance, conditioned for the faithful performance of the duties of their office, which bonds shall be executed in duplicate, one of which shall be forwarded to the state auditor, and the other be deposited with the register of the city of St. Louis. It shall be the duty of the district assessors to assess the property within the districts for which they were appointed, under the direction and superintendence of the president, in the manner provided by law. They shall commence their assessment on the first day of August in each year, and complete the same and make their final report to the president on or before the first Monday in January following. Each report shall be verified by the affidavit thereto of the assessor making it, that he made the assessment contained in his report impartially and correctly, to the best of his ability and judgment and uninfluenced by fear of or favor by, or toward any one.

SEC. 17. Qualifications of an assessor — The president of the board of assessors shall be of the age of at least thirty years, and have been a resident freeholder within the city for at least seven years next before his qualification; and

each district assessor shall have been a resident freeholder within the city for at least five years next before his qualification, or competent for his duties from actual service as an assessor of real estate in the city of St. Louis for taxation.

SEC. 18. Duties of president of board of assessors — It shall be the duty of the president of the board to superintend the work of the district assessors and the assessment of the entire city, to see that they faithfully discharge their duty, and, as far as possible, make the assessment uniform and equal throughout the city. He shall take the entire charge of the assessor's office, and all maps, plats, books, papers and furniture, etc., belonging to the said office. He shall be accountable for all such plats, and shall not permit any one of them, under any pretense whatever to be removed from the office except those which may be required by the district assessors for the assessment of their allotted districts. He shall use all proper care and diligence to preserve all maps, plats, books and papers belonging to the office from injury, and shall hold the district assessors responsible for the return, in good condition, of all plats that may be furnished to them. He shall alter and correct the office plats, and all plats used by the district assessors, as required by law. He shall furnish the district assessors with all plats, blanks, stationery, instructions, and all information that may be needed by them for the proper assessment of their respective districts. He shall receive the return of property of those upon whom the district assessors have ordered notice, except in those cases where the district assessors make personal service, and shall administer the oath required by law. He may appoint one or more of the clerks in his office as deputies, and he or they shall be authorized to administer the oath. He shall furnish paper, blanks and all necessary information to persons desiring to make appeal from the assessment of the

district assessors. He shall, in person, be at his office every working day during office hours, except when engaged in his duties as assessor, or absent on leave, and shall furnish information on all matters pertaining to the assessment of property.

SEC. 19. Assessment books, how made up — When the district assessors shall have completed their assessments, said president of the board shall make up the assessment books in proper alphabetical order from the plats and returns made by said district assessors, from the return of property holders to the assessor's office, and from the best information he can otherwise obtain, so that said assessment books shall be as nearly as possible a full and complete assessment of all taxable property in the city, the same to be completed on or before the third Monday in March of each year.

SEC. 20. Notice to be given of completion — As soon as said books are completed, the president of the board shall give one week's published notice in the daily newspapers — one of which shall be printed in German — that said books are open for inspection, and stating the time when the board of equalization will be in session.

SEC. 21. Duty of recorder of deeds — The recorder of deeds of the city of St. Louis is hereby required to deliver to the president of the board of assessors, from day to day, when required of him, and the day after the same shall have been recorded and compared, all deeds and other instruments in writing, filed in his office, by which any change of ownership is made in any of the real estate of the city of St. Louis, and the president of the board shall, without unnecessary delay, make such changes upon the plats in his office as said deeds and other instruments may require, and forthwith return such deeds and other instruments to said recorder.

SEC. 22. What property to be assessed as agricultural

lands — Lands within the limits of the city, which have not been laid off into blocks or lots, shall not be assessed or taxed otherwise than by the acre as agricultural lands, and shall continue to be so assessed and taxed until laid off into blocks or lots by the owners thereof respectively.

SEC. 23. Costs and expenses, how paid — All the costs and expenses of the assessment shall be allowed and paid by the city of St. Louis in the same manner as other demands against the city are allowed and paid, and when the aggregate for each year's assessment shall have been ascertained, the auditor of St. Louis shall certify the same to the state auditor, whose duty it shall be to draw his warrant in favor of the city of St. Louis for one-half of said assessment, as provided by law.

SEC. 24. Board of equalization — There shall be a board of equalization, consisting of the president of the board of assessors, who shall be president thereof, and four discreet and experienced real estate owners of the city of St. Louis, of a prior residence therein of ten years, who shall be appointed by the judges of the circuit court of the eighth judicial circuit on the second Monday of March annually. The duty of said board shall be to adjust, correct and equalize the valuation of real estate and personal property in said city. It shall meet on the third Monday in March annually, and shall remain in session for four weeks, if business requires it and no longer. Said board shall hear and determine all appeals in a summary manner, shall adjust and correct the assessment books accordingly, shall determine as far as possible whether the property has been assessed at the true cash value, and in just proportion to the assessed value of the other property in the city similarly situated, and to this end shall increase or diminish the assessment on any property, real or personal, or mixed. If they propose to increase the assessment in any case, they shall cause notice thereof to be served upon the owner,

agent or representative thereof, if within the city, who shall have the right to be heard upon such proposed increase. The said board shall have power to send for persons or papers, and to compel the attendance of witnesses, and to this end the sheriff of the city shall execute such process as may be issued by it. The majority of said board shall constitute a quorum, and a majority of those present shall determine all matters of appeal or revision, or correction of values. The compensation of the members of the board shall be fixed by ordinance, but the president shall receive no compensation as such member. The members of such board, before entering upon the duties of their office, shall take and subscribe an oath similar to that required of county boards of equalization.

SEC. 25. Record of proceedings — Said board shall keep a complete record of all its proceedings and deliver the same to the said president to be kept as a record in his office.

SEC. 26. Abstract of corrected assessment books — After the assessment books have been corrected, the president of the board shall make out a fair copy of the same, and shall make an abstract of said books, showing the amount of the several kinds of property assessed, and specifying the amount of value of all property within the present boundary line of the city, the amount of value of all property in the extended limits, and the aggregate value of all property within the city limits as established by this charter, and add thereto his certificate that the same contains a true and correct list of all taxable property of the city of St. Louis so far as he has been able to ascertain the same. One copy of the abstract, verified by his oath, shall be delivered on or before the fourth Monday in May to the Mayor of St. Louis, and another copy to the state auditor. He shall add upon the assessment books the state and school taxes required by law to be levied, and also add, in accordance

with a certified copy of an ordinance from the municipal assembly, all municipal taxes set forth in said ordinance, and shall then cause to be made out tax bills against the persons assessed, setting forth in said bills the name of the person, the description of the property, and the several taxes thereon, the name of the owner, lessee or agent of the property assessed, and their number or place of residence or business, and such other information as may facilitate the collection of such tax bills. He shall deliver said bills, with an abstract of the same and with a copy of the assessment books, to the comptroller, who shall compare said bills with the abstract, test the footings thereof, and then shall officially stamp said bills and deliver the same, with the abstract, to the collector and take his separate receipts therefor: First, for the aggregate of said bills; second, for the amount of the state taxes, which last receipt the said comptroller shall transmit to the state auditor.

SEC. 27. Ordinance fixing percentage of taxes — On or before the fourth Monday in May in each year, the municipal assembly shall cause to be delivered to the president of the board of assessors, a certified ordinance establishing the percentage of taxes for the current year.

SEC. 28. Correction of errors in assessments — The city comptroller is authorized and empowered to hear and determine all allegations of manifest errors in the assessment of lands for taxes, and in all cases when it shall appear that lands have been erroneously taxed, and the said comptroller shall cause the same to be corrected on the assessment books, and shall certify to the state auditor all such corrections to be credited to the collector.

SEC. 29. Delinquent taxes — And the said comptroller is further authorized and empowered to discharge all the duties and perform all the acts within the city limits, in regard to the "land delinquent list," the "sale of land

for taxes," and all other matters relating to the assessment books and tax bills, that are imposed on the county court in the general law.

SEC. 30. Bond of city collector — The collector of the city of St. Louis, before entering upon the discharge of the duties of his office shall give bond and security to the state, to the satisfaction of the mayor, in a sum provided by law and ordinance, conditioned that he will faithfully and punctually collect and pay over all state, school, municipal and other revenues, during the time he shall be in office, and that he will, in all things, faithfully perform all the duties of the office of collector according to law. The official bond required in this section shall be signed by at least five solvent securities, free holders within the city, and be executed in duplicate, one of which shall be deposited with the register and the other transmitted by the register to the state auditor, who shall carefully examine the same, and if it appear to his satisfaction that the bond is insufficient, he and the mayor shall require such collector to give additional bond, and if he fail to give such additional bond within ten days after he shall have been notified, his office shall be declared vacant. Said bond, when approved and recorded, shall be a lien against the real estate of such collector until he shall have complied with the conditions thereof. If the collector shall neglect or refuse to give such bond for fifteen days after his election, his office shall be declared vacant, and an election shall be ordered to fill the vacancy.

SEC. 31. Collector to collect all revenues except water rates — The collector shall collect all revenues derived from all other sources, which may be levied by law or ordinance within the city of St. Louis, except water rates, and keep a detailed account of all his collections, from all the different sources of revenue and taxation respectively. All collections made, belonging to the city, shall be paid into the city treasury daily, and triplicate receipts taken therefor, show-

ing from what the money proceeds, and the account to which it is placed, one of which shall be filed with the auditor, and one with the comptroller.

SEC. 32. Rebate on tax bills — On all tax bills for real and personal property, on the assessment books, which shall be paid to the collector, on or before the first day of October in each year, allowance or rebate shall be made on the city taxes on said bill, to the person or persons making such payments, at the rate of eight per centum per annum from the date of such payment to the thirty-first of December following, and the amount of such allowance or rebate shall be credited to the account of the collector, and charged to the respective revenue accounts.

SEC. 33. Collector may appoint deputies — The collector may appoint deputies, by an instrument in writing duly signed, and may also revoke any such appointment at pleasure, and may require bonds or other securities from such deputies to secure himself; and each such deputy shall have like authority in every respect to collect the taxes levied or assessed within the city or any part thereof which by law is vested in the collector himself; but the collector shall, in every respect, be responsible to the state, city, individuals, companies and corporations, as the case may be for all moneys collected, and for every act done by any of his deputies whilst acting as such, and for any omission of duty by such deputy. Any bond or security taken from a deputy by the collector shall be available to such collector, his representatives and securities, to indemnify them for any loss or damage arising from any act of such deputy.

SEC. 34. Power of collector — The said collector is authorized, empowered and directed to discharge all the duties and perform all the acts in relation to the collection of the revenue, within the city limits, that the county collector is now required and authorized by law to do.

ARTICLE XIII. — SCHOOLS.

SECTION 1. Organization and constitution of board — The board of president and directors of the St. Louis public schools shall consist of as many members as there are wards in the city. The directors shall hold their offices for three years and until their successors are elected and qualified, except as hereinafter provided. They shall be elected by the qualified voters of their respective wards at an election held for that purpose on the first Tuesday in October of each year. The present directors shall hold their offices until the first Tuesday in October, eighteen hundred and seventy-seven, and until their successors are elected and qualified. Directors of said board from the twenty-third, twenty-fifth, twenty-sixth, twenty-seventh, and twenty-eighth wards of the city shall be elected at the general state election in November, eighteen hundred and seventy-six. On the first Tuesday of October, eighteen hundred and seventy-seven, one director of said board from each ward shall be elected by the qualified voters thereof. At the first regular session of the board after said election in October, eighteen hundred and seventy-seven, the board shall divide itself by lot into three classes as nearly equal in number as practicable. The term of members belonging to the first class shall expire in October, eighteen hundred and seventy-eight; of those belonging to the second class, in October, eighteen hundred and seventy-nine; and those belonging to the third class, in October, eighteen hundred and eighty; and on and after the first Tuesday in October, eighteen hundred and seventy-eight, as near as practicable, one-third of all the members of the board shall be elected each year.

SEC. 2. City officers to assess school taxes — The officers of the city of St. Louis directed by this charter to

assess and extend the state and city taxes, and to perform other duties relating thereto, shall perform the same duties in regard to taxes levied by the board of president and directors of the St. Louis public schools.

SEC. 3. City collector to collect taxes — to give bond — The collector of the city of St. Louis shall collect all taxes levied by the board of president and directors of the St. Louis public schools. Said collector shall give such bond, for the faithful performance of his duties, to said board, and account for and pay over to said board in such manner and at such times, all school taxes collected by him, as the collector of St. Louis county was required to do under the laws heretofore in force.

Bond of collector — “The law to which reference is herein made is the act approved December 19, 1865 [Laws Mo. Adj. Sess. 1865, p. 271. See this act on page 34 of this compilation], being an act amendatory of an act revising the laws concerning the revenue of the St. Louis Public Schools, which act, among other things, provides that, ‘the collector shall enter into bond to the corporation in such sum as the Board may require, with good and sufficient securities, to be approved by the Board,’ etc.; and further, ‘that he shall pay over to the Board, at least once in every month, and oftener, if required in writing by the President of the Board, all moneys collected by him to which said Board shall be lawfully entitled.’ ”

“The bond of the County Collector was, under this law fixed by the Board in the penal sum of two hundred thousand dollars by resolution, and he was required to account and pay over once in every two weeks.” Atty’s Report, II. Off. Proc. 294.

SEC. 4. Rate of school taxes to be fixed by board — The board of president and directors of the St. Louis public schools shall determine the rate of taxation for each year by resolution, a copy of which, duly certified according to law, shall be handed to the collector of the city of St. Louis, and to the register of said city, on or before the first day of August in each year.

SEC. 5. Excess of school taxes in extended limits, to be remitted.— If the proceeds of taxes levied by the board

of president and directors of the St. Louis public schools in any one year, on property in the different wards within the newly extended city limits, should prove to be greatly in excess of amounts needed for the purpose of properly carrying on the education of children residing within such extended limits, then said board shall by resolution remit such excess. A copy of such resolution, properly authenticated, specifying the percentage remitted in the respective wards, shall be filed by the secretary of said board with the comptroller of the city of St. Louis, who shall, in extending the tax, make a deduction equal to such percentage of all taxes levied for school purposes on such property.

FROM THE

ORDINANCES

OF THE

CITY OF ST. LOUIS.

SIXTEENTH SECTION COMMISSIONERS.

AN ORDINANCE in relation to the duties of the Comptroller in connection with sale of lands in fractional section sixteen, township forty-five north, range seven east, and directing the Commissioners of said section to pay the proceeds of sale of land into the City Treasury. [City of St. Louis, Ord. 11,062.]

Whereas, the Commissioners appointed by the County Court of St. Louis County, under the provisions of the act of the Legislature of the State of Missouri, approved March third, eighteen hundred and fifty-one, are required by said act to submit their action to the County Court for its approval, and also to pay all money arising from the sale of the lands in fractional section sixteen, township forty-five north, range seven east, into the County Treasury, and, whereas, it is further provided in said act that the County Court may allow to said Commissioners all necessary expenses in prosecuting or defending suit, surveying and platting the land, and for advertising and selling the same, to be paid out of the proceeds of such sale; and, whereas, by sections twenty-four and thirty-four of the scheme for the separation of the City and County of St.

Louis, it is provided that the Municipal Assembly shall have power within the City of St. Louis to do all acts and perform all functions not otherwise provided for in the Charter and not inconsistent with its terms, which have heretofore been done and performed by the County Court of the County of St. Louis, and also that the Municipal Assembly shall have the power to enact all ordinances that may be necessary to carry into execution the laws relative to State, county, city and other revenue within the City of St. Louis as enlarged, and that such powers as are vested by law in the County Court of St. Louis County may be exercised by such tribunals and officers as may be provided by ordinance. Now, therefore, -

Be it ordained by the Municipal Assembly of the City of St. Louis, as follows:

SECTION 1. All the powers and duties which devolve upon the Municipal Assembly, as the legal successor of the County Court of St. Louis County, relating to the sale of or compromise with adverse claimants to the lands of fractional section sixteen, township forty-five north, range seven east, by the Commissioners appointed under the act of the Legislature of the State of Missouri, approved March third, eighteen hundred and fifty-one, are hereby conferred upon and shall be exercised by the Comptroller of the City of St. Louis in relation to said matters.

SEC. 2. Whenever the said Commissioners may agree upon terms of sale or compromise with adverse claimants to lands in said section sixteen, they shall submit their report in writing to the Comptroller for approval, and if he approves the same, deed may be executed accordingly.

SEC. 3. The Comptroller may allow to said Commissioners all necessary expenses in prosecuting and defending suits, payment of special taxes, surveying and platting the land for advertising and selling the same, and for all other necessary expenses connected with the trust.

SEC. 4. The said Commissioners are hereby authorized and directed to pay any and all moneys arising from sales made of said land or compromise in relation thereto into the City Treasury, first, however, deducting therefrom such necessary expenses in prosecuting or defending suits, payment of special taxes, surveying and platting the land for advertising and selling the same, and for such other necessary expenses connected with the trust as shall be allowed to said commissioners by the Comptroller of the City of St. Louis.

Approved April 5, 1879.

BUILDING ORDINANCE AMENDED.

AN ORDINANCE amendatory of chapter eleven of "An ordinance in revision of the ordinances of the City of St. Louis and for the government of said city," approved March twenty-ninth, eighteen hundred and eighty-one, and transferring a portion of the duties of the Chief of the Fire Department to the Commissioner of Public Buildings. [City of St. Louis, Ord. 12,027.]

Be it ordained by the Municipal Assembly of the City of St. Louis, as follows:

SECTION 1. Amending Chapter eleven, Revised Ordinances — Ordinance number eleven thousand six hundred and sixty-eight, entitled "An ordinance in revision of the ordinances of the City of St. Louis and for the government of said city," approved March twenty-ninth, eighteen hundred and eighty-one, is hereby amended by striking out articles two, three, four, five and six of chapter eleven, and inserting in lieu thereof, the following: Article two — Of the inspection of buildings.

* * * * *

SEC. 21. Fire-proof shutters — All the stores or store-

houses, or other buildings, which are more than two stories, or above thirty feet in height above the curb level, that may be hereafter built in the City of St. Louis, except dwelling houses or churches, shall have doors, blinds or shutters made of fire-proof metal on every window and opening above the first story, except where said openings and windows look out upon streets. When in any such building the shutters, blinds or doors cannot be put on the outside of such door or window, they shall be put on the inside; and every such door, blind or shutter shall be closed upon the completion of the business of each day by the occupant having the use or control of the same. And all fire-proof-shutters or blinds that now are, or may hereafter be put upon any building, must be so constructed that they can be closed and opened from the outside above the first story.

* * * * *

SEC. 28. Hall doors, etc., of public buildings — In all buildings of a public character already erected or hereafter to be built in the city of St. Louis, such as hotels, churches, theaters, school-houses, flats, restaurants, railroad depots, public halls and other buildings used or intended to be used for purposes of public amusement or instruction, the halls, doors, stairways, seats and aisles shall be so arranged as to facilitate egress in case of fire or accident, and to afford the requisite and proper accommodation for the public protection in such cases: and all aisles and passage ways in said buildings devoted to purposes of amusement or instruction shall be wide and capacious and shall be kept free from camp-stools, chairs, sofas and other obstructions during any performance, exhibition, lecture, concert, ball or any public assemblage: and all doors of exit leading from any assembly-room, where crowds do congregate, shall be so hinged as to open both inwards and outwards from the room or rooms. The main or principal

stairway of all tenement houses and flats containing more than twenty rooms above the first story; also all public halls, theaters, hotels and factories of all kinds shall hereafter be constructed of iron or other incombustible material, and in addition thereto, there shall also be arranged (where said buildings above specified are more than two stories in height) in any place easy of access, in case of fire, a stationary iron ladder escape of suitable construction, with hand and foot bars running parallel the whole length of the building on the side where it is placed, and extending from the ground to the top.

* * * * *

SEC. 31. Penalty for violation of article II — Any person or persons violating the provisions of this article shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be fined not less than ten dollars, nor more than five hundred dollars; and for each day such violation shall continue after notice has been given by the Commissioner of Public Buildings, or during which the person or persons so notified shall neglect or refuse to comply with the provisions of this article, there shall be an additional fine of fifty dollars, except in the case provided for in section twenty-nine of this article.

Section 29 has a penalty of its own contained in it.

Approved April 1. 1882.

* * * * *

PENALTY FOR VIOLATION OF ARTICLE III.

[City of St. Louis, Ord. 12,027.]

SEC. 17. Penalty — Any violations of the provisions of this article for which a penalty is not provided, shall be deemed a misdemeanor, and the person, persons, copartnership, or corporation guilty thereof, shall on conviction

thereof, be fined in a sum not less than fifty nor more than five hundred dollars, before the court or courts having competent jurisdiction, to be collected or paid as hereinbefore provided.

This section is not amended by ordinance 12,798 and therefore is in force as it appears above.

BUILDING ORDINANCE FURTHER AMENDED.

AN ORDINANCE AMENDATORY OF Ordinance No. 11,668, entitled " An ordinance in revision of the ordinances of the City of St. Louis and for the government of said city," approved March 29, 1881, as amended by ordinance No. 12,027, approved April 1, 1882, in relation to the construction and inspection of buildings. [City of St. Louis, Ord. 12,798.]

Be it ordained by the Municipal Assembly of the City of St. Louis, as follows:

* * * * *

SEC. 2. Said ordinance No. 11,668, as amended by ordinance No. 12,027, is hereby amended by striking out Sections four, five and ten of Article III., Chapter XI. and substituting in lieu thereof the following:

SECTION 4. **Width of aisles, etc.** — In all theatres, halls, and other buildings used as places of public amusements, and in all churches and school houses where a stage or platform now is or may hereafter be erected, the seats shall be located in rows not less than thirty-two inches from back to back, if ordinary seats, benches or chairs be used, but if the seats adopted be those having a folding seat, they may be placed so as to measure not less than fifteen inches horizontal measurement from the back of one row to a line drawn across the front of the arms of the row next behind, the measurements in all cases to be from centres of chair

backs. Each floor capable of holding one hundred and fifty persons or less shall have an aisle not less than four feet in width, running centrally through the rows of seats from the stage to places of egress, and as many additional aisles, not less than three feet in width, as may in the judgment of the Commissioner of Public Buildings be deemed necessary for the protection of the lives of persons visiting the same. Floors capable of holding one hundred and fifty to three hundred persons, shall have an aisle not less than four feet in width, running centrally through the rows, and an aisle not less than three feet wide on each outward side with separate exits from each and every aisle from the floors, and an aisle not less than four feet wide in addition to the above, shall be provided where the floors will seat one hundred persons in excess of the above number; all aisles shall be kept clear and unobstructed towards the different places of egress, and all seats shall be located in rows, to which such aisles shall conform.

SEC. 5. Additional stairways and fire escapes — It shall be the duty of the Commissioner of Public Buildings to give notice to owners, keepers or lessees of all public theatres, halls or concert rooms at present in the city, now used or to be used as places of public resort, and of all factories employing thirty or more persons, if such factory be more than two stories in height, and of all offices, store or business buildings wherein more than fourteen persons are employed above the second floor, and of all school, asylum and hospital buildings, and all tenement buildings more than two stories in height or which are occupied by more than ten families, that they shall, within sixty days after being so notified, have built and erected on the exterior front and sides of such buildings, where practicable, permanent and substantial iron balconies at each and every floor, ten feet or more above the level of the sidewalk with iron stairs at each and leading from one balcony to the

other, also on the inside of said buildings, such additional halls, passages and stairways, not less than six feet in width, from each and every floor not on a level with the sidewalk, as will afford the audience efficient means of escape directly to the outside of said buildings, and of sufficient capacity to allow the audience of said public theatres, halls and concert rooms to pass out in case of fire or panic, or from any other cause in not more than five minutes time. All stairways now used, or hereafter to be constructed in buildings used at present as places of public amusement, shall be closely boarded or panelled on the outer side to the height of not less than three feet. No baluster shall be permitted to remain on any stairways in buildings used as places of public amusement or resort, and on all stairways strong and permanent hand rails shall be fixed on the wall side; and in each of said theatres now or hereafter to be constructed, there shall be placed, under the direction of the Commissioner of Public Buildings a fire proof curtain of wire-gauze or metal, which shall be maintained in proper working order and shall be lowered within one hour before each performance and between each act; and during all performances there shall be constantly stationed in charge of said fire-proof curtain a man whose sole duty it shall be to attend to raising and lowering the same. All partitions for rooms or passages in theaters if not made bodily fire-proof shall be plastered on both sides on wire or iron lathing. All theaters or other places of amusement having a seating capacity of over five hundred persons, and having a platform or stage and using drop curtains or shifting scenery, shall have a suitable ventilator placed upon the roof and opening to the space above the stage. Such ventilator shall be arranged with valves or shutters that can be readily opened in case of fire, so that a current of air will pass over the stage and outward through such ventilator. Any other contrivance having the same effect and approved by the

Commissioner of Public Buildings may be used instead of the ventilator above described.

Any failure or neglect on the part of any person, persons, copartnership or corporation to comply with the written instructions or requirements of the Commissioner of Public Buildings issued under the provisions of this section, shall be deemed a misdemeanor, and the person, persons, copartnership or corporation guilty thereof shall on conviction thereof be fined in a sum not less than one hundred dollars nor more than five hundred dollars, and an additional fine of fifty dollars per diem to be imposed for every day during which said requirements or instructions remain unfulfilled, before any court or courts having competent jurisdiction in the premises; to be collected or paid as hereinbefore provided. * * *

Approved March 29, 1884.

ACTS OF CONGRESS.

APPROPRIATION OF VACANT LANDS IN THE VILLAGE OF ST. LOUIS, ETC.

An Act making further provision for settling the claims to land in the territory of Missouri. [2 U. S. Stats. at Large, 748.]

Rights to certain lots adjoining certain towns, confirmed — *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the rights, titles and claims, to town or village lots, out lots, common field lots and commons, in, adjoining and belonging to the several towns or villages of Portage des Sioux, St. Charles, St. Louis, St. Ferdinand, Village a Robert, Carondelet, St. Genevieve, New Madrid, New Bourbon, Little Prairie and Arkansas, in the territory of Missouri, which lots have been inhabited, cultivated or possessed, prior to the twentieth day of December, one thousand eight hundred and three, shall be and the same are hereby confirmed to the inhabitants of the respective towns or villages aforesaid, according to their several right or rights in common thereto: *Provided*, that nothing herein contained shall be construed to affect the rights of any persons claiming the same lands, or any part thereof, whose claims have been confirmed by the board of commissioners for adjusting and settling claims to land in the said territory. And it shall be the duty of the principal deputy surveyor for the said territory as soon as may be, to survey,

or cause to be surveyed and marked, (where the same has not already been done, according to law) the out boundary lines of the said several towns or villages so as to include the out lots, common field lots and commons, thereto respectively belonging. And he shall make out plats of the surveys, which he shall transmit to the surveyor general, who shall forward copies of the said plats to the commissioner of the general land-office, and to the recorder of land titles; the expense of surveying the said out boundary lines shall be paid by the United States out of any moneys appropriated for surveying the public lands: *Provided*, that the whole expense shall not exceed three dollars for every mile that shall be actually surveyed and marked.

SEC. 2. Reservation of other lands for the support of schools — *And be it further enacted*, That all town or village lots, out lots, or common field lots, included in such surveys, which are not rightfully owned or claimed by any private individuals, or held as commons belonging to such towns or villages, or that the President of the United States may not think proper to reserve for military purposes, shall be, and the same are hereby reserved for the support of schools in the respective towns or villages aforesaid: *Provided*, that the whole quantity of land contained in the lots reserved for the support of schools in any one town or village, shall not exceed one twentieth part of the whole lands included in the general survey of such town or village. * * *

APPROVED, June 13, 1812.

The lands granted by the above act are now [September 12, 1876], under the exclusive control and management of the School Board. Atty's Opinion, II. Off. Proc. 157.

Right of disposal of U. S. lands granted schools — [Opinion of Attorney given before the passage of Permanent Fund Act, approved May 16, 1879, see page 59]. "On an examination of the act of Congress giving the out-lots to this Board, that is, to the State, which were afterwards conveyed by the State to this Board, and the act of Congress making the

grant in the Grand Prairie Common Fields, as well as the act of 1820, granting the sixteenth section in each of these townships, I think they clearly leave it to the Board to dispose of these lands and apply the proceeds as in their wisdom they think best for the purposes of education. I find nowhere in those acts, or in any of the acts passed by the Legislature of Missouri, any limitation. On examining the acts of the General Assembly with reference to the sale of the 16th sections, especially the 16th section of township 45, range 7 east, I find that the language used is clearly that that part of the proceeds which was to be paid to the township was coupled with a limitation; that it was to be invested and only the income used, while that part which was to be paid to this Board was to be paid over to it to be used without limitation. So far as that portion of the real estate is concerned, I find in none of the acts any limitation imposed by the Board. * * * To sum up, I think that that part of the real estate which prior to the adoption of the Scheme and Charter was held by this Board, may be disposed of as the Board shall see fit; the money or property derived from the county school capital should be held sacred as a fund and securely invested, and the income of such fund only should be used." Atty's Opinion, III. Off. Proc. 180. See also Atty's Opinion, III. Off. Proc. 349.

Treaty and legislation recognize titles to school lands—The State of Missouri was formerly a part of the territory of France, next of Spain, then of France, who ceded it to the United States by the treaty of 1803, in full propriety, sovereignty and dominion as she had acquired and held it [*Foster v. Neilson*, 2 Pet. 253]; by which this government put itself in place of the former sovereigns, and became invested with all their rights, subject to the concomitant obligations to the inhabitants. Both were regulated by the law of nations, according to which the rights of property are protected, even in the case of a conquered country; and held sacred and inviolable when it is ceded by treaty, with or without any stipulation to such effect; and the laws, whether in writing, or evidenced by the usage and customs of the conquered or ceded country, continue in force until altered by the new sovereign.

By various acts of legislation the United States has recognized the laws, usages and customs of Spain to be legitimate sources of title; and by the act of 1812 confirmed to the inhabitants of St. Louis, and other villages, according to their several rights or rights of common thereto, the rights, titles and claims to town or village lots, out-lots, common field lots, and commons, in, belonging or adjoining to the same, which titles depended on parol grants and local customs. *Strother v. Lucas*, 12 Pet. 410. See, also, *Delassus v. The United States*, 9 Pet. 117; *Wherry v. The United States*, 10 Pet. 338; *Mackey v. The United States*, 10 Pet. 340; *Chouteau v. The United States*, 9 Pet. 137.

The act of Congress passed June 13, 1812, confirming the title and claims of certain towns and villages to village lots and commons, gave a

title which is paramount to a title held under an old Spanish concession confirmed by Congress in 1836. *Chouteau v. Eckhart*, 2 How. 344.

To perfect title—The steps necessary to perfect a title to lands granted by the United States by the act of June 13, 1812, and acts amendatory thereto are discussed at length in a decision rendered by the Missouri Supreme Court in the case of *Kissell v. Board, etc.*, *St. Louis Public Schools* (16 Mo. 553), and in *Eberle v. Same* (11 Mo. 247).

Section 2 does not pass title—The second section of the act of Congress of June 13, 1812, which reserves vacant lots for the use of schools, does not pass the legal title to the property so reserved, from the United States. Under this section, the power to determine in favor of an individual that he is the rightful claimant of a lot, and that it is not embraced in the reservation, is retained by the Government. A certain claim having been confirmed by the act of April 29, 1816, the fee passed by that act, and the reservation for the use of schools no longer applied to the property. (citing *Vasseur v. Benton*, 1 Mo. 300; *Strother v. Lucas*, 12 Pet. 410; *Newman v. Lawless*, 6 Mo. 279; *Gurno v. Adm'r of Jarvis*, 6 Mo. 330). *Hammond v. St. Louis Public Schools*, 8 Mo. 65.

Occupancy not necessary under section 2—The first section of the act of Congress of June 13, 1812, disposes of all lots, which had been inhabited, cultivated or possessed prior to December, 1803, and was intended only to settle claims, rights or titles originating under the Spanish government. The second section was intended to make a donation, and is not confined to the lots mentioned in the first section, but reserves for schools all the land embraced in the out-boundary directed to be run in the first section, and not rightfully owned or claimed by private individuals, or held as commons belonging to some town or village, or reserved for military purposes. Under the second section, neither occupancy, nor possession prior to December, 1803, is necessary to establish a town lot or outlot of a town. *Trotter v. Board, etc.*, *St. Louis Public Schools*, 9 Mo. 69.

What constitutes an out-lot, a mixed question of law and fact—The survey of the outboundary of the town of St. Louis, made in pursuance of the act of Congress of June 13, 1812, is *prima facie* evidence of title in the St. Louis Public Schools to the land within said boundary designated and set apart by the Surveyor-General of Illinois and Missouri for the use of such schools. It is, however, not conclusive, and may be rebutted by evidence, that a certain parcel of land embraced in such survey was neither "a town or village lot, out lot, common field lot nor part of the commons belonging to such town." The reservation made by the act of 1812 for the use of schools, includes only the lots in the sense in which they were understood in the enumerated towns and villages; and whether a certain piece of land is such a lot is a mixed question of law and fact. *Eberle v. Board, etc.*, *St. Louis Public Schools*, 11 Mo. 247;

also *City v. Toney*, 21 Mo. 256; *Vasquez v. Ewing*, 42 Mo. 247; s. c. 24 Mo. 31. But see *Page v. Scheibel* (11 Mo. 167), which the above case seems to overrule. The latter holds that a common field or out lot is a matter of law. See also *Hammond v. St. Louis Public Schools*, 8 Mo. 65, 83, and *Harrison v. Page*, 16 Mo. 182.

The government survey eliminates the question of out-lots -- By the ninth section of the act incorporating the Board of President and Directors of the St. Louis Public Schools, the title, possession, charge and control of all lands in or near St. Louis, granted to the inhabitants for school purposes by any act of Congress, is vested in the corporation with power to dispose of and apply the same to the purpose of education. In 1843 the Attorney-General returned a plat in conformity with the act of Congress of June 13, 1812, and acts supplemental thereto. The title to the lots thus indicated by the Surveyor as school lots enured to the benefit of the Board of Public Schools. Until the survey the title was imperfect. His certificate is record evidence of title and the question is not open whether or not these lots were out-lots or common-field lots, or other lots described in the statute. *Kissell v. Board, etc., St. Louis Public Schools*, 18 How. 19, affirming s. c. 16 Mo. 553.

Section 2 reserved certain lots — Only such of the field lots in the Grand Prairie common field of St. Louis not cultivated by the inhabitants of St. Louis prior to the 20th of December, 1803, as might be assigned, not exceeding a certain amount, were reserved for the support of schools. *Glasgow v. Lindell's Heirs*, 50 Mo. 60.

Title could be proved by parol evidence — Under the act of Congress of June 13, 1812, it was not necessary that the claimant of an out-lot should have had, either under the French or Spanish authorities or from the United States, any written recognition of his title, or any public survey; nor was he required by the supplementary act of 1824 to present the evidence of his claim and have it recognized. He might prove his title by parol evidence. *Guitard v. Stoddard*, 16 How. 494, 508.

Statute of limitations — Adverse possession for more than ten years is a good defense in an action for the possession of school lands, notwithstanding the title emanated from the government. The rule of the common law, "*nullum tempus occurrit regi*" — lapse of time does not bar the right of the crown — does not apply to any corporation, public or private. Unless such corporations are excepted from the statute of limitations they are comprehended within it under the general term "persons." (See *County of St. Charles v. Powell*, 22 Mo. 525.) And the act of 1865 [I. Mo. Rev. Stat. 1879, sec. 3227], excluding lands given to public, pious or charitable use from the operation of the act of limitations, has no application to actions commenced nor to cases where the right of entry accrued before the section was enacted. *School Directors, etc., v. Goerges*, 50 Mo. 194.

AUTHORIZING FORMATION OF STATE OF MISSOURI.

AN ACT to authorize the people of the Missouri territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states, and to prohibit slavery in certain territories, [approved March 6, 1820, 3 U. S. Stats. at Large, 545], contains the following:

SEC. 6. Section sixteen granted for schools—*And be it further enacted,* That the following propositions be, and the same are hereby, offered to the convention of the said territory of Missouri, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

First. That section numbered sixteen in every township, and when such section has been sold, or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the state for the use of the inhabitants of such township, for the use of schools.

* * * * *

In pursuance of the provisions of this act, a convention to form a constitution and state government assembled at St. Louis June 12, 1820. They accepted the propositions set forth in the sixth section, passing an ordinance to that effect, and complied fully with all of the provisions of the act. A resolution passed Congress, and was approved March 2, 1821, admitting the state on a certain condition. The Missouri legislature, by an act passed June 26, 1821, accepted the condition, and the President of the United States, on August 10, 1821, issued his proclamation announcing such acceptance. [These three instruments are set forth in full in the Revised Statutes of Missouri 1825, pp. 67, 68, 69, 70.]

See Ordinance of Acceptance of July 19, 1820, on page 195; also Act of Congress of March 3, 1823, granting lands in lieu of sixteenth section on page 236; and Act of Missouri legislature of March 3, 1851, providing for disposal of lands in sixteenth section, on page 30 of this compilation.

Survey unnecessary to test title—It is the settled construction of the Act of Congress of June 13, 1812, that by its own terms this Act vested in each inhabitant of the town of St. Louis the absolute title in fee to the common-field lot which he possessed or cultivated prior to December 20, 1803. There was no condition of survey necessary to vest title. (citing *Page v. Scheibel*, 11 Mo. 167; *Milburn v. Hortiz*, 23 Mo. 532; *Milburn v.*

Hardy, 28 Mo. 514; Vasquez *v.* Ewing, 42 Mo. 247; Guitard *v.* Stoddard, 16 How. 508; Glasgow *v.* Hortiz, 1 Black, 595. See, also, Tayon *v.* Hardman, 23 Mo. 539; Schultz *v.* Lindell, 24 Mo. 567.) Glasgow *v.* Lindell's Heirs, 50 Mo. 60.

Miscellaneous — In an act entitled "An Act providing for the government of the territory of Missouri" approved June 4, 1812 [2 U. S. Stats. at Large 743], marked "obsolete" in the Statutes at Large, in section 14 thereof, is the following language: "Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall be encouraged and provided for from the public lands of the United States in the said territory, in such manner as Congress may deem expedient."

Section 15 of the same act begins with these words: "*And be it further enacted*, That the general assembly shall never interfere with the primary disposal of the soil by the United States in Congress assembled." See Section 1, Article XIV. of the Constitution of Missouri of 1875, page 194 of this compilation.

Origin of school fund — The school fund of this State had its origin in the act of Congress of March 6, 1820, authorizing the people of the Missouri Territory to form a Constitution. By that act it was provided that section 16 of every township shall be granted to the State, for the use of the inhabitants of such township for the use of schools. An act of the General Assembly of January 31, 1831, provided for the sale of these lands to create a fund for the use of schools. (Maupin *v.* Parker, 3 Mo. 310; Payne *v.* St. Louis County, 8 Mo. 478.) State *v.* Bonner, 5 Mo. App. 13, 18.

Sixth section construed — It was the intention of the sixth section of March, 1820, under which the State of Missouri was organized, to grant to the State, for school purposes, every sixteenth section of land not otherwise disposed of to which the United States had a good title. Ham *v.* State of Missouri, 18 How. 126, affirming State *v.* Ham, 19 Mo. 592.

Proceeds of Government school lands as permanent fund — "Section numbered sixteen in every township was granted by the Congress of the United States to this State for the use of the inhabitants of such township for the use of schools. This grant was solemnly accepted by the people of this State, in convention assembled, who, at the same time, declared that it should be the duty of the General Assembly to apply the funds which may arise from such lands in strict conformity to the object of the grant. These sections, having been sold in pursuance to the laws of the State, the money arising from their sale is regarded as a substitute for the land granted. It is a permanent fund, not only for to-day or to-morrow, but for the distant future, and it is both the policy and the duty of the State so to manage it, that its benefits may be experienced by generations yet to come. This may seem impossible, but it is, nevertheless,

the duty of those entrusted with the care and management of it, to use all endeavors to perpetuate its advantages as long as possible. It is a great error to suppose that the inhabitants of a township, for the time being, can dispose of or in any way impair the fund. They are the passive recipients of its increase for the use of schools, so long as they are inhabitants of the township, but those who are to come after them have as much right to it as they have, and it is the policy of the law to preserve it for them."

A county court, therefore, having loaned township school funds at ten per cent, has no right, upon the application of the inhabitants of the township to reduce the rate of interest. *Veal v. Chariton County Court*, 15 Mo. 412, 413.

Sale of school lands — The act of the General Assembly of 17th January 1831 [Laws 1831, p. 81] to provide for the sale of the township school lands, is not repugnant to the nature of the grant, nor does it conflict with any provision of the Constitution of the State. The General Assembly having power to provide for the sale of these lands, for the use of schools, a purchaser of any of these lands under said act, acquires a valid title in fee simple to the same. *Maupin v. Parker*, 3 Mo. 310.

Following the above case the Supreme Court of Missouri, in *Payne v. St. Louis County* holds, that the grant of section sixteen in every township for the use of schools by the Act of Congress of March 6, 1820, was to be for a consideration therein set forth; that the convention, by ordinance, accepted this proposition on July 13, 1820, and provided in article 6, section 1 of the Constitution, "that schools and the means of education shall forever be encouraged in this State; and the General Assembly shall take measures to preserve from waste or damage such lands as have been, or may hereafter be, granted by the United States for the use of schools within each township in this State, and shall apply the funds which arise from such lands in strict conformity to the object of the grant: one school or more in each township shall be established as soon as practicable and necessary, where the poor shall be taught gratis."

"To carry into effect this provision of the Constitution, the legislature passed an act on the 6th Dec., 1820, providing for the leasing of the school lands, and applying the proceeds to the purposes designated in the Constitution. This policy prevailed until 1829 when the leasing of unimproved sections was prohibited; (Act of Jan. 1, 1829) and in 1831 the plan of selling the sixteenth section was adopted, which prevails to this day" [January, 1844] * * * The legislature is required to apply the funds "arising from these lands, in strict conformity to the object of the grant. Whether these funds are to arise from leasing, renting, or selling is not specified in the constitution. There is no restriction on the subject." The court accordingly holds that the act is constitutional. *Payne v. St. Louis County*, 8 Mo. 473.

State cannot abrogate a sale of school lands — “They (the land specified in the first paragraph of section six, of the Act of Congress, of March 6, 1820), were granted to the State * * * as a trustee to be dealt with ‘for the use of the inhabitants,’ including, of course, the children of the school township respectively. * * * It need scarcely be said, that the law under which these lands were sold, directed the application of the interest of the purchase-money to the purposes of education in the township from whence it was derived.” And certain of these lands having been sold, the Legislature passed an act authorizing a rescinding of the contract of sale. Speaking of the constitutionality of this act, the Supreme Court of Missouri, says: “It seems to us * * * that the General Assembly was as powerless under the Constitution of the United States, to impair or abrogate a contract thus concluded, or to interfere with rights thus vested, as it would have been to impair the obligation of any other contract, or to divest a citizen or citizens of any other right.” *Butler v. Chariton County Court*, 13 Mo. 112. See, also, *Kennett v. Cole County Court*, 13 Mo. 139.

Sixteenth section is vested in State for use of schools — A reservation from sale by the act of Congress of March 3, 1811, of land claimed before the Board of Commissioners, was not a disposition of the land, within the meaning of the first clause of the sixth section of the act of March 6, 1820, so as to prevent the same, when designated as a 16th section, from passing to the State for the use of the schools.

The act of March 6, 1820, the ordinance of July 19, 1820, declaring the assent of the people of Missouri, to the conditions contained in said act, and the designation of the sixteenth section, vest in the State, for the use of schools a complete title to land so designated, unless the title had previously passed out of the United States.

The title of the State to such land is superior to a claim based upon the act of Congress relinquishing to the claimant all the title remaining in the United States, and a patent from the government is not necessary. *State v. Ham*, 19 Mo. 592; affirmed, 18 How. 126; *State v. Gamble*, 19 Mo. 607.

Not subject to location of New Madrid claims. — The title of the State to the 16th sections granted by the act of Congress of March 6, 1820, for school purposes, is not impaired or destroyed by the previous location of a New Madrid certificate upon these sections, such sections not being subject to such locations. *Kennett v. Cole County Court*, 13 Mo. 139.

Grants of 16th section did not extend to lands confirmed by act June 13, 1812 — It is the settled construction of the act of Congress of June 13, 1812, that the act, by the force of its own terms, vested in each inhabitant of the then village of St. Louis the title in fee to the common field lot which he possessed or cultivated prior to December 30, 1803,

the date of the cession from France to the United States. It confirmed to such inhabitant the lot so possessed or cultivated without any other or further proofs of title derived from the Spanish or French governments than that of inhabitancy and cultivation or possession (*Glasgow v. Linnell's Heirs*, 50 Mo. 60; *Glasgow v. Baker*, 72 Mo. 441).

The confirmees under the act of 1812 by complying with the act of May 24, 1824, making it their duty to designate their out lots by making proof of their boundaries, possession and cultivation before the recorder, secured the recognition of the boundaries, but there was no forfeiture by reason of their failure to do so, the confirmer still held the title by force of the act of 1812 and that title is good, although the surveyor-general failed to include the land within the boundaries of the survey made by him.

The act of March 6, 1820, granting the sixteenth section for school purposes did not extend to any of the common-field lots confirmed by the act of 1812; not even to those not rightfully owned by the individuals claiming them. *Glasgow v. Baker*, 85 Mo. 559; reversing same case, 14 Mo. App. 201.

GRANTING LANDS IN LIEU OF SIXTEENTH SECTION.

An Act concerning the lands to be granted to the state of Missouri, for the purpose of education, and other public uses. [3 U. S. Stats. at Large, 787.]

Lands granted in lieu of Sixteenth Section — *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That, in all cases in which section number sixteen, in any township within the state of Missouri, has been sold, or otherwise disposed of, it shall be the duty of the register and receiver of the respective land office in whose district such land may lie, so soon after the passage of this act as may be, to select the like quantity of other lands equivalent thereto, from any of the unappropriated lands of the United States in that state, including the residue of such section, where only a part of it has been disposed of, and the value of the residue is not materially diminished by such disposition, and is nearly contiguous to such sixteenth section as may be; and a descriptive entry of such selected lands shall

be made on the books of the register, specifying as well the township in which, as that for the use of which, the selection shall have been made; and the lands thus selected and located, are hereby granted to the said state for the use of the inhabitants of the respective townships, for the use of schools, instead of such sixteenth sections so sold or otherwise disposed of. * * *

APPROVED, March 3, 1823.

See act authorizing formation of the State of Missouri on page 232 of this compilation.

Entry of lands selected in lieu of sixteenth section vested title — The act of Congress of March 6, 1820, admitting Missouri into the Union, and the act of March 3, 1823, respecting grants of land to that State without further grant or patent, vested in the State the 16th section of each township for school purposes; but where this section had been sold or disposed of by the government, it required the selection of other lands in lieu thereof by the register and receiver of the proper land district, and such selection when made and entered in the register's books, vested the title of such substituted lands in the State. *Hedrick v. Hughes*, 15 Wall. 123.

Sale of lands selected in lieu — Where lands are located in lieu of the sixteenth section granted by the act of March 6, 1820, and the land thus located sold and the money applied for the benefit of schools according to law, the State and the inhabitants of the township were estopped from afterwards claiming the sixteenth section. *State to use v. Dent*, 18 Mo. 313.

APPROPRIATION OF VACANT LANDS — SUPPLEMENTAL ACT.

An Act supplementary to an act passed on the thirteenth day of June, one thousand eight hundred and twelve, entitled "An act making further provision [provisions] for settling the claims to lands in the territory of Missouri." [4 U. S. Stat. at Large, 65.]

Duty of Individual Owners — *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That it shall be the duty of the individual owners, or claimants, of town or village lots, out lots, and common field lots, in, adjoining or be-*

longing to, the several towns or villages, of Portage des Sioux, St. Charles, St. Louis, St. Ferdinand, Villa a Robert, Carondelet, St. Genevieve, New Madrid, New Bourbon, and Little Prairie, in Missouri, and the village of Arkansas, in the Territory of Arkansas, whose lots were confirmed by the act of Congress of the thirtieth [thirteenth] of June, one thousand eight hundred and twelve, entitled "An act making further provision for settling the claims to land in the territory of Missouri," on the ground of inhabitation, cultivation, or possession, prior to the twentieth day of December, one thousand eight hundred and three, to proceed, within eighteen months after the passage of this act, to designate their said lots, by proving, before the recorder of land titles for said state and territory, the fact of such inhabitation, cultivation, or possession, and the boundaries and extent of each claim, so as to enable the surveyor general to distinguish the private from the vacant lots, appertaining to the said towns and villages.

SEC. 2. Duty of surveyor-general — *And be it further enacted*, That, immediately after the expiration of the said term allowed for proving such facts, it shall be the duty of the surveyor general, within whose district such lots lie, to proceed, under the instructions of the commissioner of the general land office, to survey, designate, and set apart to the said towns and villages, respectively, so many of the said vacant town or village lots, out lots, and common field lots, for the support of schools in the said towns and villages, respectively, as the President of the United States shall not, before that time, have reserved for military purposes, and not exceeding one-twentieth part of the whole lands included in the general survey of such town, or village, according to the provisions of the second section of the above-mentioned act of Congress; and also, to survey and designate, so soon after the passage of this act as may be, the commons belonging to the said towns and villages, according to their re-

spective claims and confirmations, under the said act of Congress, where the same has not been already done: *Provided*, That lots relinquished to the United States on account of damages done them by the earthquakes, and in lieu of which lands have been located elsewhere, shall neither be so designated or set apart, nor taken into the estimate of the quantity to which any town or village is entitled.

SEC. 3. The recorder will issue certificate — *And be it further enacted*, That the recorder shall issue a certificate of confirmation for each claim confirmed, and shall receive for the services required of him by this act, the sum of one dollar for each lot so proved to have been inhabited, cultivated, and possessed, to be paid by the respective claimants; and, so soon as the said term shall have expired, he shall furnish the surveyor general with a list of the lots so proved to have been inhabited, cultivated, or possessed, to serve as his guide in distinguishing them from the vacant lots to be set apart as above described, and shall transmit a copy of such list to the commissioner of the general land office.

* * * * *

APPROVED, May 26, 1824.

See act of June 13, 1812, on page 227 of this compilation.

Recorder's certificate only prima facie evidence — A certificate of confirmation issued by the recorder under the act of Congress of May 26, 1824, is only *prima facie* evidence of confirmation of the act of June 13, 1812 (confirming *Biehler v. Coonce*, 9 Mo. 347; *Maclot v. Dubreuil*, 9 Mo. 477; *Boyce v. Papin*, 11 Mo. 16). *McGill v. Somers*, 15 Mo. 80.

Time of survey not limited — The survey and setting apart to the use of schools, by the Surveyor-General, of a lot reserved for the use of schools by the acts of Congress of June 13, 1812, January 27, 1831, and May 26, 1824, passed to the schools the title of the United States. The acts of Congress and the survey are equivalent to a patent, and all previous steps required by law are to be presumed. No limitation as to the time of the survey was prescribed by the act of May 26, 1824. *Patterson v. Fagan*, 38 Mo. 70.

APPROPRIATION OF VACANT LANDS — FURTHER SUPPLEMENTAL ACT.

An Act further supplemental to the act entitled "An act making further provision for settling the claims to land, in the territory of Missouri," passed the thirteenth day of June, one thousand eight hundred and twelve. [4 U. S. Stats. at Large, 435.]

United States relinquishes rights to individuals — *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the United States do hereby relinquish to the inhabitants of the several towns or villages of Portage des Sioux, Saint Charles, Saint Louis, Saint Ferdinand, Villa a Robert, Carondelet, Saint Genevieve, New Madrid, New Bourbon, and Little Prairie, in the state of Missouri, all the right, title, and interest of the United States in and to the town or village lots, out lots, common field lots, and commons in, adjoining and belonging to, the said towns or villages, confirmed to them respectively, by the first section of the act of Congress, entitled "An act making further provision for settling the claims to land in the territory of Missouri," passed the thirteenth day of June, one thousand eight hundred and twelve, to be held by the inhabitants of the said towns and villages, in full property, according to their several rights therein, to be regulated or disposed of for the use of the inhabitants, according to the laws of the state of Missouri.

SEC. 2. United States relinquishes rights to school lands — *And be it further enacted,* That the United States do hereby relinquish all their right, title, and interest, in and to the town and village lots, out lots, and common field lots, in the state of Missouri, reserved for the support of schools, in the respective towns and villages aforesaid, by the second section of the above-recited act of Congress; and that the same shall be sold or disposed of, or regulated

for the said purposes, in such manner, as may be directed by the legislature of said state.

APPROVED, January 27, 1831.

See act to which this is supplemental on page 227 of this compilation.

Construction of act—The act of Congress of January 27, 1831, relinquishes to the State of Missouri the lots, commons, etc., reserved for the use of schools, by the act of June 13, 1812. The act of 1812 excluded from the reservation which it made, all lots rightfully claimed by private persons. A subsequent confirmation shows that the claim was a rightful one, when the act of 1812 was passed, and that the lot claimed was not included in the reservation for schools. *Public Schools v. Walker*, 9 Wall. 282, affirming s. c. 40 Mo. 383.

An inchoate claim to land duly located and presented to the Board of Commissioners under the acts of Congress of 1805 and 1807, and afterwards confirmed by the act of July 4, 1836, was excepted out of the reservation made for schools by the act of Congress of June 13, 1812, and was not granted by the act of January 27, 1831. After the claim has been surveyed under the confirmation, the Surveyor-General can not survey and set apart the same land to the use of schools. *Board, etc., St. Louis Public Schools v. Walker*, 40 Mo. 383.

The Act of Congress of June 13, 1812, is a reservation only, and the Act of January 27, 1831, is a grant; but of the Act of May 26, 1824, supplementary to the act of 1812, required the Surveyor-General to survey, designate and set apart the school lands, and until such designation is made, the grant by the act of 1831 is only general, and does not attach to any particular land. *Papin v. Ryan*, 32 Mo. 21. See *Papin v. Hines*, 23 Mo. 274.

By the Act of Congress of January 27, 1831, the United States relinquished all its right, title and interest in the lands reserved for schools by the act of June 13, 1812. *Cabaune v. Walker*, 31 Mo. 274.

APPROPRIATION OF LANDS IN TOWNSHIP FORTY-FIVE NORTH, RANGE SEVEN EAST.

An Act concerning certain School Lands in Township forty-five North, Range seven East, in the State of Missouri. [13 U. S. Stats. at Large, 132.]

Certain school lands granted to Missouri — *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all*

of the right, title, and interest of the United States in and to all of the lots, tracts, pieces, and parcels of land within the Grand Prairie common field, in township forty-five north of the base line, in range seven east of the fifth principal meridian line in the State of Missouri, which have not heretofore been disposed of by the United States, shall be, and the same are hereby, granted, relinquished, and conveyed by the United States, in fee simple and in full property, to the State of Missouri, for the support of schools in said township: *Provided*, That nothing in this act shall in any manner abridge, divest, impair, injure, or prejudice any adverse right, title, or interest of any person or persons in or to any portion or part of the aforesaid lots, tracts, pieces, or parcels of land which are granted, relinquished, or conveyed by this act.

APPROVED, June 15, 1864.

See act of legislature accepting the lands conveyed by the general government by the above Act, approved January 14, 1865. [Laws Mo. 1864-5, p. 336], and further act approved May 12, 1879, vesting these lands in the St. Louis School Board. [Laws Mo. 1879, p. 197], on pages 33, 56 of this compilation.

The lands granted by above Acts were together with other school lands within the county of St. Louis placed under the control of the county court by Act of the legislature, approved January 31, 1865, [Laws Mo. 1864-5, p. 33], with the power to lease or sell the same. So far [September 12, 1876], none of them have been sold. Whenever such disposition is made of them, the extent of the interest of the Board in the proceeds will probably have to be determined by legal proceedings. Atty's Opinion, II. Off. Proc. 157.

INDEX.

The figures refer to pages.

ABILITY.

teacher may be removed without questioning his, 18.

ABSENCE OF PRESIDENT. *See* PRESIDENT OF SCHOOL BOARD.

ABSENCE FROM SCHOOL.

rule as to, reasonable, 17.

ABSENT MEMBERS.

Board may compel attendance, 12.

less than quorum may compel attendance, 20.

ACCEPTANCE OF LAND.

granted by Congress June 15, 1864, 33.

ACTIONS.

to determine right to position of director, 12.

limitation of, for possession of realty, 31, 231.

ACTUAL CORPORATION.

School Board is an, 6, 179, 187.

ADJOURNMENT. *See* PURSUANT TO ADJOURNMENT.

ADJUSTMENT UNDER SCHEME.

arbitrators to value, 197, 198.

arbitrators, how chosen, 198.

arbitrators' report filed in court, 198.

County School Fund paid School Board, 198.

transfer of all school property in extended limits, 198, 199.

intersection of districts by new limits, 199.

enumeration to be made, 199, 200.

money due School Board, how raised, 200.

AFFIDAVIT. *See* OATH.

AFRICAN DESCENT. *See* COLORED SCHOOLS.

AGE. *See* SCHOOL AGE

Director must be over twenty-one years, 8.

voter must be over twenty-one years, 11, 64, 179, 204.

school age between six and twenty, 188, 189.

AGENTS. *See* SERVANTS AND AGENTS.

may act for principal, when, 156, 157.

AGENTS, UNKNOWN. *See* JUDICIAL SALES.

The figures refer to pages.

AGREEMENTS. *See* CONTRACTS.

- with Washington University, 46.
- respecting O'Fallon Polytechnic Institute, 46.
- respecting Library, 46, 47.
- respecting Polytechnic instruction, 46.
- respecting Ames bequest, 46.
- with Public School Library Society, 47.

AGRICULTURAL LANDS.

- certain property to be assessed as, 209, 210.

AGRICULTURAL SOCIETIES.

- property of, exempt from taxation, 152, 182.

ALDERMEN.

- ineligible to School Board, 11, 27.

AMENDMENTS.

- of School Board charter, 23.
- an act which does not amend School Board charter, 24.
- memorial asking amendment of Permanent Fund act, 60, 61.
- of charters, not to be by local or special laws, 178, 194.

AMES BEQUEST.

- agreement respecting, 46.

AMES, HENRY.

- name to be associated with Library, 46.

ANNUAL STATEMENT.

- Board shall publish, 21.

APPARATUS.

- injury to, 79, 122.
- board shall provide, 138.

APPEARANCE TO SUIT.

- entered by members, binds board, 9.
- may be entered without formal consent of board, 9.

APPLICATION OF PURCHASE MONEY.

- purchaser of Carondelet lands, not liable for, 41.

APPLICATION FOR RENEWAL OF LEASE. *See* RENEWAL OF LEASES.

APPOINTMENTS.

- teachers', may be made on probation, 18.
- teachers', may be made in vacation, 18.
- Commissioners of Section Sixteen, 30.
- Commissioners to sell Tp. 45, R. 6, 32.
- Commissioners to Re-establish Ward Limits, 67.

APPORTIONMENT OF PUBLIC SCHOOL FUND. *See* COUNTY SCHOOL FUND; PUBLIC SCHOOL FUND; TOWNSHIP SCHOOL FUND; SCHOOL FUND.

- State Superintendent shall apportion in July, 154.

The figures refer to pages.

APPORTIONMENT OF PUBLIC SCHOOL FUND — Continued.

- the basis shall be the enumeration of children, 154.
- shall certify amounts to State Auditor, 154.
- county clerks shall apportion for their counties, 154.
- district failing to return enumeration not entitled to share, 154.
- other duties of county clerk, 154.
- duties of county treasurer, 154.
- districts, cities or towns failing to sustain school at least three months not entitled to share, 154, 155.

APPRENTICES.

- may attend school without pay in any district, 173.

APPROPRIATION OF UNITED STATES' LANDS.

- statute of limitations, 31, 231.
- construction of acts relating to school lands, 91.

Act June 13, 1812.

- right to certain lots adjoining St. Louis and other towns confirmed, 227.
- reservation of other lands for schools, 228.
- lands granted by this act are under control of School Board, 228.
- right of disposal of these lands granted, 228, 229.
- treaty and legislation recognize title, 229.
- steps necessary to perfect title, 230.
- section two does not pass title, 230.
- occupancy not necessary, 230.
- what constitutes an outlot a mixed question of law and fact, 230.
- government survey eliminated the question of outlots, 231.
- section two reserved certain lots, 231.
- title could be proved by parol, 231.

Act March 6, 1820.

- General Assembly shall not interfere with primary disposal of soil, 194, 233.
- authorizing formation of State, 232.
- Section number Sixteen offered State, 232.
- survey unnecessary to vest title, 232.
- religion, morality and knowledge shall be encouraged, 233.
- origin of School Fund, 233.
- sixth section construed 233.
- proceeds of government school lands a permanent fund, 233.
- policy of the law respecting, 233, 234.
- act to sell Sixteenth Section not repugnant to grant, 234.
- there is no restriction as to sale or lease, 234.
- State cannot abrogate a sale of school lands, 235.
- Sixteenth Section is vested in State for schools, 235.

The figures refer to pages.

APPROPRIATION OF UNITED STATES' LANDS — Continued.

not subject to location of New Madrid claims, 235.

grant of Sixteenth Section did not extend to lands confirmed by act of June 13, 1812, 235, 236.

Act March 3, 1823.

lands granted in lieu of Sixteenth Section, 236.

entry of lands vests title, 237.

State estopped to claim lands after sale, 237.

Act May 26, 1824.

duty of individual owners, 237.

duty of surveyor general, 238.

duty of recorder, 239.

recorder's certificate only *prima facie* evidence, 239.

time of survey not limited, 239.

Act January 27, 1831.

United States relinquishes rights to individuals, 240.

United States relinquishes rights to school lands, 240.

construction of act, 241.

act of June 13, 1812, is a reservation: act of January 27, 1831 a grant, 241.

Act June 15, 1864.

certain school lands granted to State, 241.

ARABIC FIGURES.

use of, 157.

ARBITRARY CONDUCT.

director liable for, 8.

ARBITRATION.

compensation of Sixteen Section Commissioners, 58.

under scheme, of value of property in extended limits, 198.

ARMY.

serving in, disqualifies voter, 65, 204.

serving in, exempt from taxation, 105.

ARSON.

burning school house is, 75.

punishment for, 75.

person convicted of, disqualified as juror or voter, 148.

ASSAULT AND BATTERY.

when corporal punishment is not, 18, 19.

ASSEMBLY. *See* GENERAL ASSEMBLY; MUNICIPAL ASSEMBLY.

ASSESSMENT. *See* ASSESSOR; ST. LOUIS BOARD OF ASSESSORS.

manufacturing and business companies to be assessed, 108.

informalities which do not avoid assessment, 109.

lands omitted previous years, how assessed, 109.

valuation, how determined, 109.

The figures refer to pages.

ASSESSMENT — Continued.

- personal property classified, how assessed, 110.
- lands to be assessed and valued, how, 110.
- what taxes shall be assessed, levied and collected, 111.
- changing time of, 134, 142.
- assessor to receive tax-book, when, 134.
- real estate assessed every two years, 134.
- shall commence when, 134.
- plats of lands and lots in St. Louis, 135.
- property owned June 1st liable to assessment, 135.
- classification of property for, 142.
- city of St. Louis to be assessed by general laws, 206.
- books, how made up, 209.
- notice of completion of assessment, 209.
- duty of recorder of deeds, 209.
- certain property assessed as agricultural lands, 209, 210.
- costs and expenses of, 210.
- abstract of assessment books, 211.
- city comptroller to correct manifest errors, 212.
- delinquent taxes, 212.
- ordinance fixing percentage of taxes, 212.
- rebate on tax-bills, 214.

ASSESSOR.

- list of leased lands to be returned to, 43.
- meaning of, 106.
- to make return of assessment of boats and vessels, 114.
- duties of, 142.

ASSIGNATION AND BAWDY HOUSES.

- leasing house within one hundred yards of school, 170.
- lease recorded, two witnesses to indict, 170.
- obtaining lease under false pretenses, 171.
- displaying sign of decent occupation, 171.

ASSISTANT SECRETARY.

- sureties on Secretary's bond not liable for, 21.

ASSUMED NAME.

- registering under, 65.
- voting under, 65.

ATTENDANCE.

- board may compel, of absent members, 12.
- less than quorum may compel, 20.
- rule as to absence from school, 17.
- teacher shall keep register of, 123.

ATTORNEY-GENERAL.

- member of State Board of Equalization, 187.
- member of State Board of Education, 188.

The figures refer to pages.

ATTORNEY.

- may be verbally employed, 9.
- may be employed without formal action of school board, 9.
- Sixteenth Section Commissioners may employ, 30.

AUDITOR. *See* STATE AUDITOR.

AUDITOR'S BOND.

- when sureties on, not liable, 37.

BALLOT. *See* ELECTIONS.

- all elections by the people shall be by, 179, 203.
- to be numbered in order, 179.
- numbered on list, 179.
- in contested elections ballots may be inspected, 180.
- description of prescribed ballot, 203.
- not as prescribed, not counted, 203.

BARLOW, S. D.

- corporator Public School Library Society, 44.

BAWDY HOUSES. *See* ASSIGNATION AND BAWDY HOUSES.

BENTON, THOMAS H.

- corporator of board for superintending schools, 24.

BEQUEST. *See* AMES BEQUEST.

BET OR WAGER.

- interest in, disqualifies voter, 65, 204.

BIDDING FOR OFFICE. *See* OFFICE.

BOARD OF ALDERMEN.

- members of, ineligible as Directors, 27.

BOARD OF ASSESSORS. *See* ST. LOUIS BOARD OF ASSESSORS.

BOARD OF DELEGATES.

- members of, ineligible as Directors, 27.

BOARD OF DIRECTORS. *See* BOARD, ETC., OF ST. LOUIS PUBLIC SCHOOLS; DIRECTORS; SCHOOL BOARDS.

BOARD OF EDUCATION. *See* STATE BOARD OF EDUCATION.

BOARD OF EQUALIZATION. *See* STATE BOARD OF EQUALIZATION; ST. LOUIS BOARD OF EQUALIZATION.

BOARD, THE, OF PRESIDENT AND DIRECTORS OF THE ST. LOUIS PUBLIC SCHOOLS. *See* DIRECTORS; ELECTION OF DIRECTORS; PRESIDENT OF SCHOOL BOARD; SCHOOL BOARDS.

In general.

- name, 5.
- incorporation of Board, 5.
- free white persons resident in St. Louis shall constitute, 5, 7, 13.
- residents of St. Louis incompetent as jurors in suits, Board party to, 7.
- Directors and President shall be free white males, 8.

The figures refer to pages.

BOARD, THE, OF PRESIDENT AND DIRECTORS OF THE ST. LOUIS PUBLIC SCHOOLS — Continued.

Board to prescribe time, place, and manner of election, 11, 12, 20, 63, 206.

Aldermen ineligible, 11, 27.

Mayor ineligible, 11.

disorderly conduct at meetings punished, 12.

all free white citizens presumed to have notice of rules, 13.

illegal rules void, 15.

vote in Board shall be *viva voce*, 15, 180.

quorum to consist of majority, 20.

less than, may compel attendance of absent members, 20.

annual statement by, 21.

Board not subject to garnishment, 23.

service of process on Board, 23.

charter of, amendment of, 23, 24.

charter of, a public act, 23.

compensation of Directors, 28.

lands granted by Congress vested in, 22, 56.

Health Officer ineligible, 27.

Lafayette Park Commissioner ineligible, 27.

Board of Delegates, members of, ineligible, 27.

city officers ineligible, 27.

violation of certain acts by officers of Board, 28.

Director must have resided in ward, how long, 28, 40.

Board to determine rate of taxes by resolution, 36, 216.

copy of resolution to be handed collector, 36, 216.

copy of resolution to be handed county clerk, 36.

copy of resolution to be handed city register, 216.

school taxes to be paid Board monthly, 36.

oftener if required by President in writing, 36.

collector to give bond to, 36, 216.

Board to fix compensation of county clerk for services respecting school taxes, 39.

change of ward boundaries vacates Directors' seats, 40.

election to be ordered by Board to fill vacancies, 40.

Directors to hold till successors qualify, 40.

new wards entitled to same number of Directors as old, 40.

Carondelet school property transferred to, 41.

member interested in contract to build or repair school houses to be suspended, 42.

member interested in furnishing supplies to be suspended, 42.

member interested in contracts with Board may be expelled, 42.

The figures refer to pages.

BOARD, THE, OF PRESIDENT AND DIRECTORS OF THE ST. LOUIS PUBLIC SCHOOLS — Continued.

Board shall make provision for educating colored children, 53.

Board shall maintain high school for, 53, 54.

Board shall maintain a department of normal instruction for, 53.

Board and county court to apportion certain school funds, 55.

portion due St. Louis county in year 1877 to be paid School Board, 55.

in and after year 1877, Board to be paid city's share, 55.

Board to return enumeration of children, 55.

act vesting lands acquired by Act of Congress, June 15, 1864, in Board, 56.

Board shall only use income of Permanent Fund, 60, 61.

proceeds of Permanent Fund may be invested, 60, 61.

number of Directors not to exceed number of wards, 63.

but if number of wards do not exceed twelve, then number of

Directors not to be more than double that number, 63.

Board may prescribe election districts, 63.

part of Public School Fund due city of St. Louis to be paid to Board, 125.

constitutional provision respecting elections, binding on Board, 180.

Board liable to special taxes, 182.

constitutional provision limiting school indebtedness applies to Board, 187.

Attorney reports all sources of revenue to Board, 191.

Constituted how.

two members from each ward, 11.

shall hold their offices for three years, 19, 215.

shall be divided into three classes, 20, 215.

one-third to go out every year, 20.

members from new wards to be classed as from old, 20.

one-third to be elected annually, 20.

shall consist of as many members as wards, 63, 215.

change made by city charter, 201, 215.

shall be elected when, 215.

Corporation of.

consists of all free white persons, 5, 7.

actual corporation, 6, 179, 187.

not a municipal corporation, 6, 179.

not a *quasi* corporation, 6, 179, 187.

a public corporation, 7.

corporate acts, how proved, 9, 23, 24.

lection of.

first election, how held, 11.

The figures refer to pages.

BOARD, THE, OF PRESIDENT AND DIRECTORS OF THE ST. LOUIS PUBLIC SCHOOLS — Continued.

board to prescribe time, place and manner, 11, 12, 20, 63, 206.

election districts to be established by, 12.

Board judge of qualifications, elections and returns, 12, 13.

members to be elected for three years, 19, 215.

Jurors.

Board party to suit, residents of St. Louis incompetent as, 7.

members of Board exempt from jury service, 128, 129.

Liability of,

not for loss of pupil's clothing, 19.

for gross negligence, 19.

for special taxes, 182.

Members.

number of, 11, 63, 215.

Board may expel, 12.

shall hold until successors qualify, 20.

may qualify at any day during term, 20, 27.

to take oath before judge or justice, 23.

service of process may be made upon, 23.

Meetings.

absentees may be compelled to attend, 12.

Board to prescribe time and place of stated, 20.

four stated meetings, annually, 20.

President may call special meetings, 20.

three members of Board may call special meetings, 20.

notice of special meetings in writing to all members, 20.

stated meetings now held monthly, 20.

special meetings held on three days notice, 20.

President of the Board.

Board shall elect one of its own number, 12.

service of process may be made upon, 23.

Powers and duties.

shall deal equitably, 6.

should not give away interests intrusted to it, 6.

powers of corporation vested in President and Directors, 8.

must prescribe time, place and manner of elections, 11, 12, 20, 63, 206.

judge of qualifications, elections and returns of members, 12, 13.

may compel attendance of absent members, 12.

may expel members by two-thirds vote, 12, 42.

but not a second time for same offense, 12.

may punish disorderly conduct of members, 12.

may combine election precincts, 12, 206.

to make rules for government of proceedings, 13.

The figures refer to pages.

BOARD, THE, OF PRESIDENT AND DIRECTORS OF THE ST. LOUIS PUBLIC SCHOOLS — Continued.

- to make rules for management of schools and property, 13.
- may do all lawful acts, 13, 15.
- to have charge and control of school property, 13, 16.
- may contract to erect school houses, 15.
- may build school houses, 15.
- may enforce contractor's bond, 15.
- can not interfere with a dairy unless a nuisance, 19.
- to prescribe powers, duties, obligations and compensation of agents and servants, 21.
- to prescribe powers, duties, obligations and compensation of Treasurer and Secretary, 21.
- shall lay record of proceedings before General Assembly, 21.
- shall lay record of proceedings before a general meeting of inhabitants, 21.
- shall have power to call general meeting of inhabitants of city, 21.
- shall publish annually statements of condition of affairs of the Board, 21.
- shall have kept a record of proceedings, 21.
- shall appoint Treasurer and Secretary, 21.
- agents and servants appointed by, 21.
- to take possession of lands granted by Congress, 22.
- to dispose of and apply lands granted by Congress, 22.
- approval of collector's bond, 37.
- may lend money, 26.
- Board's powers and duties as to Library, 44, 46, 47, 50.
- to invest Permanent Fund, 60, 61.
- enumeration of children, to have taken, 62.
- may adopt previous enumeration, 62.
- Board to return annually to State Superintendent enumeration, 125.
- to determine rate of taxation, 216.
- shall remit excess of school taxes in extended limits, 217.

BOATS AND VESSELS. *See* TAXATION OF BOATS AND VESSELS.

BOND. *See* SURETIES.

- board may enforce bond to secure sub-contractors, 15.
- Secretary's, 21.
- sureties on Secretary's not liable for acts of assistant, 21.
- county collector shall give, 36.
- office of, vacated if bond not given, 37.
- sureties on treasurer's bond liable, when, 37.
- sureties on public officers' bond liable, when, 37.
- construction of treasurer's bond, 38.
- construction of bond required by statute, 38.

The figures refer to pages.

BOND — Continued.

procedure on official bond, 38.

President of Board of Assessors to give, 207.

District Assessors to give, 207.

BONDS. *See* MONEY, STOCKS AND BONDS; RENEWAL FUNDING BONDS.

State Board of Education to invest capital of Public School Funds in, 54.

meaning of, 145.

sale of school bonds at ninety cents less commission, 193.

Bonds of United States.

Public School Funds may be invested in, 124, 125.

Bonds of State of Missouri.

Public School Funds may be invested in, 124, 125.

Bonds of City of St. Louis.

County School Funds may be invested in, 192, 193.

BORROW.

Director shall not, from Board, 28.

BOUNDARIES. *See* WARDS; APPROPRIATION OF UNITED STATES' LANDS.

depositions touching, 22.

BRANCHES OF PUBLIC LIBRARY. *See* LIBRARY.

may be established, 50.

dues of, may be increased, 50.

BRIBERY. *See* OFFICERS; VOTERS.

of public officer, punishment, 80.

officers accepting bribe, punishment, 80.

bribing officer to appoint to office, 81.

officer accepting bribes to make appointments, 82.

accepting office procured by bribery, 82.

attempting to bribe officer, 82.

bribery to procure office, 83.

accepting bribe to procure office, 83.

accepting bribe by voter, 83, 132.

offering to bribe voter, 84.

conviction of, renders candidate ineligible, 132.

conviction of, disqualifies candidate-elect, 132.

BUILDER.

Board may enforce bond of, 15.

BUILDING SCHOOL HOUSES. *See* SPECIAL AND LOCAL LAWS.

BUILDINGS PARTLY USED FOR SCHOOLS. *See* EXEMPTION FROM TAXATION.

BURNING SCHOOL HOUSE.

arson in third degree, 75.

may be arson in first or second degrees, 75.

BY LOT.

members shall be divided into three classes, 20, 215.

The figures refer to pages.

CABANNE, JOHN P.

corporator of board for superintending schools, 24.

CANDIDATE. *See* ELECTIONEERERS OR CANVASSERS.

must receive majority or plurality to elect, 14.

if ineligible, does it work election of next highest? 14.

convicted under Electioneering Act, 132.

"CANDIDATES OATH."

constitutional provision respecting, rescinded, 10.

"test-oath," 10.

CANVASSERS. *See* ELECTIONEERERS OR CANVASSERS.

CAPITAL OF PUBLIC SCHOOL FUNDS. *See* PUBLIC SCHOOL FUND.

CAPITAL STOCK.

meaning of, 145.

CARONDELET SCHOOL PROPERTY.

transferred to St. Louis School Board, 41.

purchaser not liable for application of purchase money, 41.

CARR, WM. C.

corporator of board for superintending schools, 24.

CAUSE FOR REMOVAL.

of teachers, a question of fact, 8.

CEMETERIES.

exempt from taxation, 182.

CERTIFICATES. *See* TEACHERS.

CHANGING LINES OF SCHOOL DISTRICTS.

not to be by local or special law, 178.

CHANGING LINES OF TOWNSHIPS.

not to be by local or special law, 178.

CHARACTER AND NATURE OF STUDIES.

constitution does not limit schools concerning, 188.

CHARGE AND CONTROL.

Board to have, of schools and school property, 13.

CHARITABLE PURPOSES.

property used exclusively for, exempt from taxation, 106.

building partly used for, 183.

CHARTER OF BOARD.

a public act, 23.

amendment of, 23.

CHARTERS.

contracts forbidden by illegal, 17.

contracts to effectuate objects of, legal, 17.

cannot be amended by local or special law, 178, 194.

cannot be renewed by local or special law, 178, 194.

cannot be extended by local or special law, 178, 194.

cannot be explained by local or special law, 178, 194.

The figures refer to pages.

CHEEVER, JOSHUA.

contest for his seat, 13.

CHILDREN. *See* COLORED CHILDREN; ENUMERATION; NON-RESIDENT PUPILS; ORPHAN CHILDREN.

CHILDS, C. F.

corporator Public School Library Society, 44.

CHOUTEAU, AUGUSTE.

corporator of board for superintending schools, 24.

CHRISTMAS.

a holiday, 172.

CITIZEN. *See* VOTER.

CITY.

residence in, to qualify voter, 11, 179, 204.

lands and other property of, exempt from taxation, 106.

laws regulating affairs of, not to be local or special, 178.

laws creating offices in, not to be local or special, 178.

shall not aid schools for religious or sectarian purposes, 194.

CITY CHARTER, EFFECT OF. *See* ADJUSTMENT UNDER SCHEME.

provisions of, govern qualifications of voters, 11, 12.

election of members of Board, 201.

intersecting school districts by extended limits, 201, 202.

excess of taxes in extended limits, 201.

funds affected by, 202.

CITY COLLECTOR. *See* COLLECTOR; COLLECTOR OF ST. LOUIS COUNTY.

duties as to collection of revenue, 111, 213.

shall give bond, 213.

failure to give bond vacates office, 213.

election to fill vacancy, 213.

may appoint deputies, 214.

bonds of deputies, 214.

shall perform duties of county collector, 214.

shall give bond to School Board, 216.

copy of tax resolution by Board to be handed to, 216.

shall collect school taxes, 216.

CITY COMPTROLLER.

shall perform such other duties relating to assessments as formerly performed by county court, 129, 212, 213.

shall correct manifest errors in assessments, 212.

Ordinance respecting Sixteenth Section.

to perform duties respecting Sixteenth Section devolving on Municipal Assembly, 219.

reports of Commissioners to be submitted to him, 219.

if he approves, deed to be executed, 219.

comptroller may allow Commissioners' expenses, 219.

The figures refer to pages.

CITY LIMITS.

- extension of, vests property in Board, 15, 16, 41.
- intersection of school districts, 197, 198.
- transfer of school property in new, 198, 199.
- Board shall remit excess of taxes in new, 201, 217.

CITY OFFICERS.

- meaning of, 27.
- ineligible as School Directors, 27.
- may qualify by resigning city office, 27.
- voters for, may vote for School Directors, 63.
- to perform duties of county officers, 129, 130.
- assessment of school taxes to be made by, 215, 216.

CITY OF ST. LOUIS.

- meant when county referred to, 112, 113, 129, 158.
- is a school district, 179.
- County School Fund may be invested in bonds of, 192, 193.
- shall be assessed by general laws, 206.

CITY REGISTER.

- duties of county clerk to be performed by, 130, 157.
- copy of tax resolution by the Board to be handed to, 216.

CITY TAX.

- President and Directors shall have paid, 8, 10.
- when to be paid to qualify Director, 10, 11.
- dog license, not a, 10.
- voter must have paid, 11.

CLAIMS CORRUPTLY ALLOWED.

- by public officer, punishment, 77.

CLARK, WILLIAM.

- corporator of board for superintending schools, 24.

CLASSIFICATION OF LANDS.

- by Attorney, of lands in Permanent Fund, 61.

CLASSIFICATION OF MEMBERS.

- shall be by lot into three classes, 20, 215.
- members from new wards to be classed as from old, 20.

CLASSIFICATION OF PROPERTY.

- for assessment, 141.

CLERK OF COUNTY COURT. *See* COUNTY CLERK.

CLERKS OF COURTS OF RECORD.

- shall keep account of fines, penalties and forfeitures, 141.

CLERKS OF ELECTION. *See* JUDGES OF ELECTION.

- to take oath, 12.
- oath to be returned with poll-book, 12.
- frauds by, punished, 88.
- neglect to perform duties punished, 89.

The figures refer to pages.

CLOTHING OF PUPIL.

Board not liable for loss of, in certain cases, 19.

COLLECTOR. *See* CITY COLLECTOR; COLLECTOR OF ST. LOUIS. COUNTY; COUNTY COLLECTOR.

collecting illegal taxes, 86.

meaning of, 106.

COLLECTOR OF ST. LOUIS COUNTY.

bond shall be given by, 36.

bond to be approved by Board, 36, 37.

collection of school tax to be made by, 36.

compensation same as for similar services, 36.

shall pay over to Board monthly, 36.

oftener if required by President in writing, 36.

tax resolution, copy of, to be handed to, 36.

school tax to be collected in same manner as other taxes, 36.

failure to give bond vacates collector's office, 37.

shall perform other duties, 39.

COLORED CHILDREN.

St. Louis School Board shall make provision for the education of, 53.

COLORED SCHOOLS. *See* SEPARATE SCHOOLS.

Board shall maintain separate high school, 53, 189.

Board shall provide normal instruction, 53.

Board cannot be forced to admit colored children into Central or Branch High School, 54.

"may" in constitution means "must," 54, 189.

separate schools shall be established, 54, 151, 188.

board neglecting to establish, county court shall, 149, 150.

boards of education shall provide separate, 151.

COMMISSIONER OF HEALTH.

ineligible as School Director, 27.

COMMISSIONER OF LAFAYETTE PARK.

ineligible as School Director, 27.

COMMISSIONERS TO RE-ESTABLISH WARD LIMITS. *See* WARDS.

to be sworn, 67.

appointment of, by circuit court, upon petition of citizens, 67.

compensation, shall receive reasonable, 67.

consist of three, 67.

old ward lines, shall not be governed by, 67.

report, shall make within ninety days, 67.

copy of, filed with court, 68.

copy of, filed with Mayor, 68.

when approved by court, ward lines shall be fixed, 68.

recorder of voters to render Commissioners assistance, 68.

The figures refer to pages.

COMMISSIONERS OF SECTION SIXTEEN. *See* SECTION SIXTEEN.

- attorneys, may be employed by, 30.
- county court to appoint, 30.
- proceeds of sale, how applied, 30.
- possession of property to be taken by, 30.
- property to be sold by, 30.
- compromise of claims by, 30, 58, 59.
- proceeds may be loaned, 31.
- expenses to be paid, 31.
- property to be divided by, 31.
- act relating to, 57.
- Sixteenth Section undisposed of, vested in Board, 57.
- Commissioners to report acts to Board, 58.
- reasonable compensation to be fixed by arbitration, 58.
- litigation with, 58, 59.
- reversal of *Glasgow v. Baker*, 59.

Ordinance respecting.

- powers devolving on Municipal Assembly to be exercised by city comptroller, 219.
- terms of sale or compromise to be submitted to comptroller, 219.
- if comptroller approves, deed may be executed, 219.
- comptroller to allow Commissioners' expenses, 219.
- Commissioners to pay proceeds of sale or compromise into city treasury, 220.
- first deducting expenses allowed by comptroller, 220.

COMMISSIONERS TO SELL TOWNSHIP 45, RANGE 6.

- three Commissioners shall be appointed by county court, 32.
- report of sale of, to be made to county court, 32.
- subdivide and sell, Commissioners shall, 32.
- compensation, shall receive none, 33.
- deeds to, shall be executed by, 33.
- proceeds of sales to be paid into county treasury, 33.
- proceeds to be loaned, 33.

COMMON SCHOOLS.

- means public schools, 188.

COMPEL ATTENDANCE.

- Board may, of absent members, 12.
- less than quorum may, 20.

COMPENSATION. *See* ARBITRATION; CONDEMNATION OF LANDS FOR PUBLIC USE.

- Board shall prescribe, of Treasurer and Secretary, 21.
- Board shall prescribe, of servants and agents, 21.
- Directors shall receive none, 28, 29.
- Commissioners to s 11 Tp. 45, R. 6, shall receive none, 33.

The figures refer to pages.

COMPENSATION — Continued.

county collector, 36.

Board to fix county clerks', in reference to, school taxes, 39.

Commissioners of Section 16 to be fixed by arbitration, 58.

Commissioners to Re-establish Ward Limits, 67.

State Board of Equalization same as members of the Legislature's, 107.

COMPROMISE.

Sixteenth Section Commissioners may make, 30, 58, 59, 219.

COMPTROLLER. *See* CITY COMPTROLLER.

CONCEALED WEAPONS. *See* WEAPONS IN SCHOOL.

CONDEMNATION OF LANDS FOR PUBLIC USE. *See* EMINENT DOMAIN, PUBLIC USE.

lands may be condemned when, 69.

petition to, 69.

summons when to issue, how served, 70.

publication, 70, 71.

appointment of commissioners, duties of, 71.

different owners may be joined in one petition, 72.

clerk to give notice of filing of report, 72.

report may be reviewed when, 72.

cost, by whom paid, 73.

shall not enter or appropriate dwelling house, 73.

proceedings when property held by corporation, 73.

land for depot purposes, how condemned, 73.

condemnation of school house site, 119.

private property shall not be taken for public use without compensation, 177.

compensation, how ascertained, 177.

property not to be disturbed until compensation be paid to owner or into court, 177.

fee of land taken for railroad tracks to remain in owner, 177.

appropriation of property for a public school house site is for a public use, 177, 178.

CONDUCT OF DIRECTORS.

for which they are liable, 8.

disorderly, in Board meeting, 12.

CONFIRMATION OF TITLE. *See* APPROPRIATION OF UNITED STATES' LANDS.

CONGRESS. *See* APPROPRIATION OF UNITED STATES' LANDS.

Board to take possession of lands granted by, 22.

Board to dispose of and apply lands granted by, 22.

title to lands granted by, vested in Board, 22.

proceeds land granted by, to form part of School Fund, 124, 190.

also proceeds sale of land, Congress consenting, 124, 190.

Legislature not to interfere with primary disposal of soil by, 194, 233.

The figures refer to pages.

CONSTITUTIONALITY OF LAW.

- act cancelling contract for sale of school lands, 91.
- relating to distribution of railroad taxes, 166, 167.
- relating to rate of railroad taxation, 166.
- relating to debt owed School Fund, 184.

CONSTITUTION OF STATE.

- provision of, respecting elections binding on Board, 180.
- governs school elections, 180.
- provision respecting increase of school tax, not self-enforcing, 185.
- does not limit course of study, 188, 189.
- does not prescribe kind of schools, 188, 189.

CONSTRUCTION. *See* DEFINITIONS.

- statute rules for, 156.

CONSTRUCTION OF ACTS RELATING TO SCHOOL LANDS.

- various decisions, 91.

CONSTRUCTION OF PENAL LAWS.

- note on, 74.

CONTAGIOUS AND INFECTIOUS DISEASES.

- child affected, not to attend school, 176.
- child affected, may be examined by physician, 176.
- parent refusing to have child examined, child may be excluded, 176.
- parent sending child excluded, guilty of a misdemeanor, 176.

CONTESTED ELECTIONS.

- notice of must be specific, 13.
- time given to make notice specific, 13.
- candidate elected must receive majority or plurality, 14.
- ineligibility of candidate-elect, 14.
- Rule 6, Rules and Regulations, respecting contests, 14.
- one vacancy ordered filled, not two to be elected, 15.
- ballots may be inspected, 180.

CONTRACT.

- member of board cannot alter, 8.
- written, cannot be varied by loose conversations, 8.
- employment of attorney, 9.
- teacher's, need not be in writing, 9.
- teacher's, need not be proved by record, 9.
- individual members cannot make, for supplies, 9.
- use of supplies thus purchased does not ratify, 9.
- Board has power to make for erection of school houses, 15.
- corporation cannot make, forbidden by charter, 17.
- corporation can make only those effectuating objects of charter, 17.
- interest in, with Board disqualifies Director, 42.
- contracts affecting Library, 44.
- contract with Washington University, 46.

The figures refer to pages.

CONTRACT — Continued.

contract with Public School Library Society, 47.

act cancelling contract of sale of school lands unconstitutional, 91.

CONTRACTOR.

Board may enforce bond of, 15.

CONTROL. *See* CHARGE AND CONTROL.

CONVENTION ORDINANCE.

acceptance of grant of Section Sixteen, 195, 196.

COPY.

proof of corporate acts by sworn or certified, 23.

of act to be sent to Commissioner of General Land Office, 34.

CORONER. *See* HEALTH COMMISSIONER.

CORPORAL PUNISHMENT.

legal although disproportionate to offense, 18, 19.

must cause no lasting injury, 19.

object, must be to correct pupil, 19.

when, not assault and battery, 19.

instructions of Court of Criminal Correction, 18, 19.

CORPORATION. *See* SPECIAL AND LOCAL LAWS.

CORPORATORS OF BOARD FOR SUPERINTENDING SCHOOLS.

names of, 24.

CORPORATORS OF PUBLIC SCHOOL LIBRARY SOCIETY.

names of, 44.

CORRUPTION.

directors liable for, 8.

COUNCIL OF CITY OF ST. LOUIS.

shall perform certain duties of county court, 111.

COUNTY.

includes City of St. Louis, 112, 113, 158.

laws creating offices in, shall not be local or special, 178.

laws regulating affairs of, shall not be local or special, 178.

laws prescribing powers and duties of officers in, shall not be local or special, 178.

shall not aid schools for religious or sectarian purposes, 194.

COUNTY CLERK.

copy of tax resolution to be handed to, 36.

shall perform same duties in collecting school tax as he does in reference to other taxes, 39.

compensation for services under school revenue act to be fixed by Board, 39.

list of children to be forwarded to, 62.

list of tax-payers to be forwarded to, 62.

lists to be recorded by, 62.

compensation of, under school lands act, 95.

The figures refer to pages.

COUNTY CLERK — Continued.

- shall furnish copy of State Auditor's certificate of equalization to assessor, and also copy to county board of equalization, 108.
- returns of elections to increase school tax, 121.
- shall collect fines, penalties, etc., 126.
- shall pay same to county treasurer, 126.
- shall inspect accounts of interest for Section Sixteen and other school lands, 126.
- shall take proper measures to secure each township its full amount of School Funds, 126.
- shall transmit to State Superintendent, abstract of returns, 127.
- shall take receipt from collector for amount of school taxes, 127.
- duties of, to be performed by city register, 130, 157.
- shall apportion School Fund, 154.
- other duties of county clerk, 154.
- shall extend railroad taxes on railroad tax book, 163.
- shall certify to chief officer of railroad statement of taxes, 163, 164.
- what the certificate shall contain, 164.
- county clerk to assess school taxes, 167, 168.

COUNTY COLLECTOR. *See* CITY COLLECTOR; COLLECTOR; COLLECTOR OF ST. LOUIS COUNTY.

- liable for railroad taxes, 112.
- when he shall make seizure for taxes, 112.
- shall give receipt to county clerk, 112, 127.
- shall collect school taxes, 127.
- compensation, 127.
- shall pay monthly to county treasurer, 127.
- shall return delinquent school taxes, 127.
- city collector to perform duties of, 214.

COUNTY COURT.

- Commissioners to sell Tp. 45, R. 6, shall appoint, 32.
- Commissioners shall report sale to, 32.
- Commissioners to execute deed on approval by, 33.
- proceeds of Section 16, Tp. 45, R. 7, to be managed by, 52.
- Municipal Assembly to perform duties of, 129.
- comptroller to perform duties of, 129, 212, 213.
- Mayor to perform duties of, 129.
- shall collect, preserve and invest School Funds, 137.
- shall provide colored schools, if board neglects, 149, 150.
- County School Fund shall be apportioned by, 155.
- means probate court, when, 158.
- shall levy railroad taxes, 159.

COUNTY OFFICERS.

- duties of, to be performed by city officers, 113.

The figures refer to pages.

COUNTY OR CIRCUIT ATTORNEY.

meaning of, 158.

COUNTY PROPERTY.

exempt from taxation, 106.

COUNTY SCHOOL FUND.

finer to be paid for benefit of, 90, 137.

invested at interest from six to ten per cent, 137.

unencumbered realty of double value and personal security, loan of,
to be secured by, 137, 192, 193.

distributed when, 154.

apportioned according to enumeration, 154, 155.

apportioned by county court at August term, 155.

capital to be securely invested and sacredly preserved, 191.

income to be appropriated for free public schools, 192.

capital of County School Fund a trust fund, 192.

Board's interest in fines, penalties and forfeitures, 192.

Of what composed.

money, stocks and bonds, etc., 137, 191.

net proceeds sale of estrays, 137, 191.

money paid for exemption from military duty, 137, 191.

fines, penalties and forfeitures, 137, 191, 192.

COUNTY TREASURER.

bond of, 37, 38.

mandamus on, 38.

compensation and liability of, 118.

shall be paid fines, penalties and forfeitures, 126.

shall be paid delinquent school taxes, 128.

other duties of county treasurers, 154.

shall be paid annually income of School Fund, 188.

COURSE OF STUDY.

constitution does not limit, 188, 189.

COURT. *See* COUNTY COURT; COURT OF CRIMINAL CORRECTION.

COURT OF CRIMINAL CORRECTION.

instructions respecting corporal punishment, 18, 19.

CREATING CORPORATIONS.

shall not be by local or special law, 178, 194.

CREATING OFFICES IN SCHOOL DISTRICTS.

shall not be by local or special law, 178.

CREDITS.

meaning of, 146.

CRIME. *See* INFAMOUS CRIME.

CRIMES AND MISDEMEANORS. *See* FELONY; MISDEMEANORS.

CUSTODIAN OF SCHOOL FUND.

liability of, 38.

The figures refer to pages.

DAMAGES.

directors not liable for, when, 8.

DAY. *See* SCHOOL DAY.

DEADLY WEAPONS. *See* WEAPONS IN SCHOOL ROOM.

DEATH.

vacancy caused by, how filled, 20.

DEFICIENCY IN PUBLIC SCHOOL FUND. *See* PUBLIC SCHOOL FUND.

General Assembly to provide for, 190.

not less than twenty-five per cent of State revenue to be set apart, 190
191.

DEFINITIONS.

"usual election," 12.

"pursuant to adjournment," 13.

"incompetency or immorality," 18.

"city officers," 27.

"immediate vicinity," 75.

"manufacturer," 102.

"merchant," 102.

"exempted from taxation of every kind," 106.

"assessor," 106.

"collector," 106.

"county," 113, 158.

"real property," 144, 157.

"real estate," 144, 157.

"land," 144, 157.

"lot," 144.

"bonds," 145.

"capital stock," 145.

"shares of capital stock," 145.

"stocks," 145.

"personal property," 145, 157.

"money," or "moneys," 146.

"credits," 146.

"property," 146, 157.

"oath," 146.

"person," 146.

"may," 54.

"month," 156.

"year," 156.

"year of our Lord," 156.

"State," 156.

"United States," 156.

"will," 156.

"testament," 156.

The figures refer to pages.

DEFINITIONS — Continued.

- "codicil," 156.
- "written," 156.
- "in writing," 156.
- "writing word for word," 156.
- "premises," 157.
- "town," 157.
- "executor," 157.
- "under legal disability," 157.
- "general election," 157.
- "county clerk," 157.
- residence, place of, 157.
- "justice of the county court," 158.
- "county or circuit attorney," 158.
- "in vacation," 158.
- "and for other purposes," 165, 166.
- "common schools," 188.

DELEGATES.

- members of Board of, ineligible as Directors, 27.

DELINQUENT TAXES. *See* RAILROADS, TAXATION OF; TAXES.

DEPOSITIONS.

- Board may take, respecting lands granted by United States, 22.
- originals or copies evidence, 23.
- to be filed in office of circuit clerk, 23.

DEPOSITS.

- of public fund, public officer receiving benefit of, 76, 77.

DEVISES.

- part of Public School Fund, 124.

DIRECTORS. *See* BOARD, ETC., OF ST. LOUIS PUBLIC SCHOOLS;

BOARD OF DIRECTORS.

- do not alone constitute School Board corporation, 7.
- shall be free white males, 8.
- shall be at least twenty-one years of age, 8.
- shall have resided in city twelve months, 8.
- shall be citizens of United States, 8.
- shall have paid a city tax, 8.
- powers of corporation vested in, 8.
- not required to take "test-oath," 10.
- "candidate's oath" repealed, 10.
- number of, 11.
- Board may compel attendance of, 12.
- Board may punish disorderly conduct of, 12.
- Board to judge of qualifications of, 12, 13.
- Board must elect one of its number its President, 12.

The figures refer to pages.

DIRECTORS — Continued.

- Board may expel, 12.
- but not twice for same offense, 13.
- those from new wards to be classed as those from old, 20.
- three members may call special meeting, 20.
- to be sworn before judge or justice, 23.
- service of process on, 23.
- may qualify at any reasonable time during term, 27, 28.
- shall receive no compensation, 28.
- residence in ward twelve months, 28.
- violation of certain laws by, a misdemeanor, 28.
- violation of certain laws disqualifies, 28.
- moving from ward vacates seat, 28.
- not to borrow money of Board, 28.
- to enforce certain provisions of charter, 28.
- interest in title adverse to Board, disqualifies, 29.
- interest in lease or sale of Board property disqualifies, 29.
- ward boundaries changed, shall hold till successors qualify, 40.
- change of ward boundaries vacates seat, 40.
- residence in ward six months, 40.
- interest in contracts with Board, disqualifies, 42.
- interest in furnishing supplies, disqualifies, 42.
- Director interested in contracts, etc., to be suspended, 42.
- and may be expelled by two-third vote, 42.

DISBURSEMENT OF SCHOOL FUNDS.

- fraudulent disbursement of public, 78.
- district not maintaining school three months, not entitled to part of, 188.

DISCHARGE OF FIRE-ARMS.

- in vicinity of school, 75.

DISCIPLINE.

- teacher may be removed without questioning, 18.

DISCRETION.

- Board may use its, in investing Permanent Fund, 61.

DISEASES. See CONTAGIOUS AND INFECTIOUS DISEASES.

DISORDERLY CONDUCT.

- of members at meeting of Board, 12.

DISPOSAL OF SOIL BY UNITED STATES.

- interference with, prohibited, 194, 233.

DISPOSING OF LIQUOR. See ELECTIONEERERS AND CANVASSERS.

- to pupils, 128.

DISTRICTS. See SCHOOL DISTRICTS.

DISTRICTS, ELECTION.

- School Board may establish, 11, 12.

The figures refer to pages.

DISTURBING SCHOOL.

a misdemeanor, 89, 90.

DIVIDENDS FROM ESTATES.

part of Public School Fund, 124.

DIVOLL, IRA.

corporator of Public School Library Society, 44.

DOG LICENSE.

not a city tax, 10.

DUES IN LIBRARY. See FEES AND DUES.

DOORS. See PUBLIC SAFETY.

DULY ELECTED AND QUALIFIED.

members to hold until successors are, 20.

public officers shall hold until successors are, 91.

DURING TERM.

members may qualify, within reasonable time, 27, 28.

EDUCATION OF COLORED CHILDREN. See COLORED SCHOOLS.

EDUCATION, PURPOSES OF.

property granted by the United States or this State, 106.

EFFECT OF CITY CHARTER. See CITY CHARTER, EFFECT OF.

ELECTIONEERERS OR CANVASSERS.

accepting consideration for electioneering purposes, a misdemeanor, 132.

giving money to pay for liquors, a misdemeanor, 132.

Employment of.

giving consideration for, a misdemeanor, 131.

candidate convicted under act, ineligible, 132.

candidate-elect convicted, forfeits office, 132.

penalty for, 132.

ELECTION DISTRICTS. See PRECINCTS.

Board may establish, 11, 206.

ELECTION FOR INCREASE OF SCHOOL TAXES. See INCREASE OF SCHOOL TAXES.

ELECTION OF DIRECTORS. See CONTESTED ELECTIONS; VOTERS.

manner of first election, 11.

Board may prescribe time, place and manner of, 11, 12, 20, 63, 206.

change made by city charter, 11, 215.

first Tuesday in October, 11, 215.

Board may combine precincts, 11, 12, 206.

Board judge of election of its members, 12, 13.

judges and clerks to be sworn, 12.

oaths to be returned with poll books, 12.

term three years, 19, 203.

one-third to be elected every year, 20, 203.

The figures refer to pages.

ELECTION OF DIRECTORS — Continued.

Board to order election to fill vacancies, 20, 40.

President to order election to fill vacancies, 42.

voters for city officers qualified to vote at, 63.

special, how held, 153.

governed by State constitution, 180.

ELECTION OF OFFICERS.

must be *viva voce*, 180.

ELECTION OF PRESIDENT.

at meeting held pursuant to adjournment void, 13.

not necessary until end of term, 13.

ELECTIONS. *See* BALLOTS; CONTESTED ELECTIONS; ELECTIONEERS OR CANVASSERS; ELECTION OF DIRECTORS; VOTERS.

clerk must return oath with poll book, 12.

to be legally conducted, 65.

frauds, 86, 87.

circulating fraudulent tickets, 87.

importing fraudulent voters, 87.

fraudulent voting, 87.

attempt to cast illegal vote, 87.

fraud by judges and clerks of election, 88.

fraud in casting up returns, 89.

neglect of judges and clerks to perform duty, 89.

voter to vote in residence precinct, 165.

ballot, contents of, not to be disclosed, 179, 180.

election officers to be sworn, 179.

elections shall be by ballot, 179, 203.

ballots to be numbered, 179.

officers of, to be sworn, 179.

in cases of contests ballots may be inspected, etc., 179, 180.

ballot, description of prescribed, 203.

ballot, not conforming to, not counted, 203.

polls open at six o'clock, close at seven, 203.

polls shall not be closed during the day, 203.

continue one day only, 203.

special elections to fill vacancies, 203.

duty of register, 204.

voter may be challenged, 205.

duty of judges when voter challenged, 205.

subject to general statutes, 206.

ELECTIONS BY PERSONS IN REPRESENTATIVE CAPACITY

shall be *viva voce*, 180

ELECTIONS BY THE PEOPLE.

shall be by ballot, 179, 203.

The figures refer to pages.

ELECTIONS IN THE SCHOOL BOARD.

voting by ballot void, 180.

voting shall be *viva voce*, 180.

ELECTORS. *See* VOTERS.

EMBEZZLEMENT.

fraudulent disbursement of public funds, 76.

EMINENT DOMAIN. *See* CONDEMNATION OF LANDS FOR PUBLIC USE.

property must be compensated for, 177.

how compensation ascertained, 177.

school house site, 178.

EMPLOYMENT. *See* ATTORNEYS; ELECTIONEERERS OR CANVASSERS;
SERVANTS AND AGENTS; TEACHERS; TREASURER AND SECRETARY.

ENUMERATION.

of children of school age to be taken annually, 62.

of both white and colored youths, 62.

male and female, 62.

resident taxpayers to be annually listed, 62

Board may relieve itself of enumeration four times in five years by
adopting last preceding, 62.

Board to return annually, 125.

adjustment under scheme provides for, 199, 200.

EQUALIZATION. *See* STATE BOARD OF EQUALIZATION; ST. LOUIS
BOARD OF EQUALIZATION.

EQUITABLY.

Board should deal, 6.

interests of schools should not be given away, 6.

ERECTION OF SCHOOL BUILDINGS. *See* INCREASE OF SCHOOL
TAXES.

Board may contract for, 15.

Board may erect school buildings, 15.

ERRONEOUS TAX. *See* RAILROADS, TAXATION OF.

ESCHEATED LANDS AND OTHER PROPERTY.

proceeds part of Public School Fund, 124.

ESTABLISH AND MAINTAIN.

General Assembly shall, free public schools, 188.

ESTRAYS.

proceeds of, part of Public School Fund, 125.

proceeds of, part of County School Fund, 191.

EVIDENCE. *See* PROOF.

declarations of deceased Secretary respecting renewal of leases,
21, 22.

depositions and copies of, 23.

proof of corporate acts of Board, 23, 24.

The figures refer to pages.

EXCESS OF TAXES.

remitted in new limits, 201, 216, 217.

EXECUTION.

public school property not subject to, 16.

EXECUTOR.

meaning of, 157.

EXEMPTION FROM JURY SERVICE. *See* JURY SERVICE.

EXEMPTION FROM MILITARY SERVICE.

money paid for, part of County School Fund, 191.

EXEMPTION FROM TAXATION.

persons belonging to army of United States, 105.

United States' lands, buildings and furniture, 105.

lands and other property belonging to the State, 105, 182.,

lands and other property belonging to any city, county or other municipal corporations, 106, 182.

public squares, 106.

lands or lots granted by the United States or this State for purposes of education, 106.

lots and lands with buildings thereon used exclusively for religious worship, 106, 182.

lots and lands with buildings thereon used exclusively for schools, 106, 182.

lots and lands with buildings thereon used exclusively for charitable purposes, 106, 182.

"exempted from taxation of every kind" does not include special taxes, 106, 182.

property used exclusively for agricultural or horticultural societies, 152, 182.

laws exempting property other than that specified void, 182.

cemetries, 182.

the provisions exempting from taxation do not include special taxes, 182.

buildings partly used for schools, 182, 183.

"EXEMPTED FROM TAXES OF EVERY KIND."

does not include special taxes, 106, 182.

EXPLAINING CHARTERS.

shall not be by local or special law, 178.

EXPULSION OF MEMBER.

two-thirds vote, 12.

not a second time for same offense, 12.

vacancy caused by, to be filled by election, 20.

EXPULSION OF PUPIL.

social party, 17.

The figures refer to pages.

EXTENDED LIMITS.

- vests property in Board, 15, 41.
- intersection of school districts, 197, 198.
- excess of taxes remitted, 201, 216, 217.

EXTENDING CHARTERS.

- shall not be by local or special law, 178, 194.

FACT.

- cause for removal of teacher, a question of, 8.
- incompetency of teacher, a question of, 8.

FALSE PRETENSES. *See* ASSIGNATION AND BAWDY HOUSES.

FEES.

- exacting a fee or reward by officer, a misdemeanor, when, 138.

FEES AND DUES. *See* LIBRARY.

Library membership.

- controlled by School Board, 50.
- life membership fees, increase of, 50.
- non-resident fees may be increased, 50.

FELONY.

- illegal registration, 65.
- illegal voting, 65.
- violation of assignation and bawdy house law, 170, 171.
- speculation in school funds, 187.

FINES, PENALTIES AND FORFEITURES.

- to be paid for benefit of County School Fund, 90.
- sheriffs shall collect, 110.
- sheriffs shall settle for at each term of court, 110.
- part of Public School Fund, 124.
- county clerk to collect, 126.
- to be paid to county treasurer, 126.
- clerks of courts shall keep account of, 141.
- part of County School Fund, 191.
- Board's interest in, 192.

FIRE. *See* ARSON.

FIRE ARMS.

- discharge of, in vicinity of school, punishment for, 75.

FIRE ESCAPES. *See* PUBLIC SAFETY.

FIRE PROOF DOORS, BLINDS OR SHUTTERS. *See* PUBLIC SAFETY.

FIXTURES.

- injury to school house, 79, 122.

FORFEITURE OF OFFICE. *See* ELECTIONEERERS OR CANVASSERS.
when, 86.

FORFEITURES. *See* FINES, PENALTIES AND FORFEITURES.

The figures refer to pages.

FORMATION OF STATE OF MISSOURI.

act authorizing, 232.

FOUR MONTHS.

General Assembly shall maintain schools annually, at least, 190, 191.

FOURTH OF JULY.

a holiday, 172.

FRAUD.

directors liable for, 8.

FRAUDULENT ELECTION TICKETS. *See* ELECTIONS.

FRAUDULENT VOTING. *See* ELECTIONS.

FRAUDS BY JUDGES AND CLERKS. *See* ELECTIONS; CLERKS OF ELECTION; JUDGES OF ELECTION.

FREE PUBLIC SCHOOLS.

General Assembly shall establish and maintain, 188.

instruction shall be gratuitous, 188

FREE WHITE MALES.

President and Directors shall be, 8.

voters must be, 11.

FREE WHITE PERSONS.

constitute Board of Public Schools, 5, 13.

FUND OF PUBLIC NATURE.

fraudulent disbursement of, 78.

FUNDS. *See* COUNTY SCHOOL FUND; JUDICIAL SALES; PERMANENT FUND; PUBLIC SCHOOLS FUND; SCHOOL FUND; SINKING FUND; STATE SCHOOL FUND.

interest on loan of, should not be reduced, 6.

liability of custodian, 38.

fraudulent disbursement of public, 78.

affected by city charter, 202.

origin of School Fund, 233.

FUNDING BONDS. *See* RENEWAL FUNDING BONDS.

FURNITURE.

injury to school house, 79, 122.

GARNISHMENT.

School Board not subject to, 16, 23.

GENERAL ASSEMBLY.

record of Board's proceedings to be laid before, 21.

vests school land in Board, 22, 56.

shall not pass certain local or special laws, 178.

shall aid and maintain State University, 189.

shall establish and maintain free public schools, 188.

may maintain schools longer than four months annually, 190, 191.

shall provide for deficiency in school fund, 190.

The figures refer to pages.

GENERAL ASSEMBLY — Continued.

shall provide for registration of voters in certain cities, 180.

shall not aid schools controlled by religious or sectarian denominations, 194.

shall not interfere with disposal of soil by United States, 194, 233.

GENERAL LAW. *See* SPECIAL AND LOCAL LAWS.

GENERAL ELECTION.

same as "usual election," 12.

meaning of, 157.

GENERAL GOVERNMENT. *See* APPROPRIATION OF UNITED STATES' LANDS; CONGRESS; UNITED STATES.

GENERAL MEETING.

of inhabitants, 21.

record to be laid before, 21.

GIFTS.

part of Public School Fund, 124.

GERAGHTY, A. J.

contested seat of Joshua Cheever, 13.

GIVING LIQUOR TO STUDENTS.

a misdemeanor, 128.

GOVERNMENT BONDS. *See* BONDS.

GOVERNMENT LAND. *See* APPROPRIATION OF UNITED STATES' LANDS.

vested in St. Louis School Board, 22, 56.

GOVERNOR.

member of State Board of Equalization, 187.

ex officio member of Board of Education, 188.

GOVERNMENT OF SCHOOLS.

Board to make rules for, 13.

GRANTS, GIFTS AND DEVISES.

part of Public School Fund, 124.

GROSS NEGLIGENCE.

Board liable for, 19.

HEALTH OFFICER.

ineligible as Director, 27.

HIGH SCHOOL.

memorial respecting, 61.

remonstrance respecting, 61.

HIGH SCHOOL, COLORED.

Board must maintain, 53, 189.

HOLIDAYS.

Thanksgiving, Washington's Birthday, Fourth of July, Christmas, 172.

HORTICULTURAL SOCIETIES.

property of, exempt from taxation, 152, 182.

The figures refer to pages.

HOUSES OF PROSTITUTION. *See* ASSIGNATION AND BAWDY HOUSES.
HYGIENE. *See* PHYSIOLOGY AND HYGIENE.

ILLEGAL COUNTING.

notice of contest must be specific respecting, 13, 14.

ILLEGAL FEES. *See* FEES.

ILLEGAL REGISTERING.

a felony, 65.

ILLEGAL RULES.

void, must be disregarded, 15.

court will prevent enforcement, 17.

case must be plain for court's interference, 17.

ILLEGAL TAX. *See* RAILROADS, TAXATION OF.

tax payer may resist although he took no step to prevent assessment, 186.

punishment for collection of, 86.

ILLEGAL VOTING.

a felony, 65.

intimidating voters, 86.

IMMEDIATE VICINITY.

two hundred yards, 75.

INCOME-BEARING INVESTMENT.

proceeds of Permanent Fund must be placed in, 61.

INCOMPETENCY OF TEACHER.

a question of fact, 8.

INCORPORATION OF SCHOOL BOARD.

act of, 5.

name, 5.

composed of, 5.

INCREASE OF SCHOOL TAXES.

For School Purposes.

board in its judgment may call election for, 120.

shall call election on petition of five tax payers, 120.

board to determine rate of taxation to be submitted, 120.

election to be held at usual place, 120.

majority of tax payers voting shall decide the question, 120, 184, 185.

result to be certified by secretary of the board, 120.

on receipt of certificate by county clerk, the tax to be assessed, 120.

tax to be assessed on all taxable property, 120.

including merchant's statements, 120.

constitutional provision respecting limit of taxation self-enforcing, 120.

in districts formed of cities, towns and villages increase not to exceed what, 183, 184.

in other districts, 184.

The figures refer to pages.

INCREASE OF SCHOOL TAXES — Continued.

For erecting school houses.

- board at discretion may call election for, 121.
- shall call election on petition of ten tax-payers, 121.
- board to determine rate to be submitted, 121.
- election to be held at usual place, 121.
- two-thirds of qualified voters, voting shall determine increase, 121, 184, 185.
- result to be certified to county clerk by secretary of board, 121.
- on receipt of certificate, tax to be assessed, 121.
- tax to be assessed on all taxable property, 121.
- including merchants' statements, 121.
- elections above provided for when, where and how held, 121.
- propositions to increase school taxes to be voted on separately, 122.
- notice of such elections how given, 122, 185.
- constitutional provision for increase of school taxes not self-enforcing, 185.

INELIGIBLE.

- Mayor, as School Director, 11.
- member of Board of Aldermen, as Director, 11, 27.
- candidate, does it elect next highest? 14.
- Health Officer, as School Director, 27.
- Lafayette Park Commissioner, as School Director, 27.
- city officer, as School Director, 27.
- member of Board of Delegates, as Director, 27.
- not having resided in ward how long, as Director, 28, 40.
- removal from ward vacates seat, 28.
- person interested in property leased from Board, 29.
- person interested in title adverse to Board, 29.
- candidate convicted under electioneering act, 132.

INFAMOUS CRIME.

- conviction of, disqualifies voter, 65, 204.

INHABITANTS OF CITY.

- general meeting of, 21.

INJUNCTION. *See* PROCEDURE.

- will lie to restrain void tax, 185, 186.
- will lie to prevent sale of school land for taxes, 186.

INJURY TO SCHOOL HOUSES.

- penalty, 79, 122.
- furniture, fixtures, apparatus, etc., 79, 122.
- punishment in civil action, not in lieu, 122.

INJURY TO SCHOOL LANDS.

- a misdemeanor, 79.
- prosecutor on indictment, unnecessary, 79.

The figures refer to pages.

INSTITUTE, O'FALLON POLYTECHNIC.

agreement respecting, 46, 47.

INSTRUCTION FOR PAY.

Board cannot give persons, not of school age, 189.

INSTRUCTION, NORMAL.

for colored children, 53.

INSURANCE COMPANIES.

failure to pay school tax, 91.

INTENTION TO BECOME CITIZEN.

declared, qualifies as voter, 64, 179, 203.

INTEREST.

on school loan cannot be reduced, 6.

Board may lend money at, not exceeding ten per cent, 26.

on County School Fund to be from six to ten per cent, 137.

INTERFERENCE.

with primary disposal of the soil by United States, 194, 233.

INTERPRETATION. *See* DEFINITIONS.

INTERSECTION OF SCHOOL DISTRICTS.

by extension of city limits, 197, 198.

INTIMIDATING VOTERS. *See* ELECTIONS.

punishment for, 86.

INTOXICATING LIQUOR. *See* ELECTIONEERERS OR CANVASSERS.

selling or giving to students a misdemeanor, 128.

IN VACATION.

meaning of, 158.

INVESTMENT. *See* BONDS; COUNTY SCHOOL FUND; LOANS; PUBLIC SCHOOL FUND.

of Permanent Fund, must be income-bearing, 60, 61.

of Permanent Fund, Board may use discretion, 61.

Public School Fund to be invested under direction of State Board of Education, 124.

in United States or State bonds, 124, 125, 192, 193.

County School Fund may be loaned on real and personal security 137, 192.

of capital of Public School Fund, 192.

County School Fund may be invested in other than Federal or State bonds, 192, 193.

in State bonds, payment for stock in, not necessarily an investment in, 192.

JUDGE OR JUSTICE OF THE PEACE.

members and Treasurer and Secretary to take oath before, 23.

JUDGES OF ELECTION. *See* ELECTIONS; CLERKS OF ELECTION; ELECTION OF DIRECTORS.

The figures refer to pages.

JUDGES OF ELECTION — Continued.

- must be sworn, 12, 179.
- oath to be returned with poll books, 12.
- frauds by judges and clerks, 88, 89.
- neglect to perform duties, 89.

JUDICIAL NOTICE.

- of School Board charter, 23.
- of act of Legislature, January 14, 1865, 33.

JUDICIAL SALES.

- act respecting surplus funds from, 139.
- owner or agent unknown, 139.
- surplus to be paid for support of schools, 139, 140.
- interest not to be paid on, 140.
- claimants must make satisfactory proof, 140.
- surplus to become permanent fund, 140.

JOINT AUTHORITY.

- words importing, how construed, 156.

JURORS.

- incompetency of St. Louisans when School Board party to suit, 7.
- persons convicted of certain crimes incompetent, 148.

JURY SERVICE.

- exemption from, 128, 129.
- teachers exempt, 173, 174.

JUSTICE OF COUNTY COURT.

- meaning of, 158.

KIND OF SCHOOLS.

- constitution does not prescribe, 188, 189.

LABORERS.

- Board may enforce bond to secure, 15.

LAFAYETTE PARK COMMISSIONER.

- ineligible as Director, 27.

LANDS. See ESCHEATED LANDS; APPROPRIATION OF UNITED STATES' LANDS.

- lands granted by Congress vested in St. Louis School Board, 22, 56.
- depositions touching title, etc., to be taken, 22.
- originals or copies evidence, 23.
- Board may lend proceeds of sale or lease of lands, 26.
- sale or lease of, in which Director interested, void, 29.
- act of March 26, 1845, does not affect existing titles, 29.
- interest in title adverse to Board disqualifies Director, 29.
- interests in leases from Board disqualifies Director, 29.
- limitation of action for possession of, 31, 231.

The figures refer to pages.

LANDS — Continued.

sale of Tp. 45, R. 6, 32, 33.

acceptance of, granted by Congress June 15, 1864, 33.

Carondelet School Lands, application of purchase-money, 41.

Carondelet School Lands transferred to Board, 41.

list of leases to be returned by Secretary to President of Board of Assessors, 43.

return *prima facie* evidence of facts therein stated, 43.

act vesting lands granted June 15, 1864, in School Board, 56.

classification of, by Attorney, 61.

trespass upon school lands, 79.

prosecutor unnecessary, 79.

proceeds of, granted by United States, part of Public School Fund, 124.

proceeds sales public lands form part of Public School Fund, 124.

escheated, form part of Public School Fund, 124.

meaning of, 157.

certain property to be assessed as agricultural lands, 209, 210.

Lands in lieu of Sixteenth Section.

proceeds to form part of Township School Fund, 126.

act of Congress granting, 236.

entry of vests title, 237.

State selling, estopped to claim Sixteenth Section, 237.

Permanent Fund.

granted by State to form, 59.

granted by United States to form, 59.

may be disposed of, 60.

effect of act, 60.

proceeds to be invested in income-bearing investment, 60, 61.

surplus from judicial sales to form, 140.

LAW AND FACT. *See* FACT.

what constitutes an outlot a question of, 230.

LAWFUL ACTS.

Board may do all, to effectuate objects of corporation, 13.

LAW OF THE LAND.

rules must not be inconsistent with, 13.

LAWS.

construction of penal laws, 74.

exempting other property than that specified, void, 182.

LAWS, CONSTRUCTION OF. *See* DEFINITIONS.

LEARNING.

teacher may be removed without questioning, 18.

LEASE. *See* ASSIGNATION AND BAWDY HOUSES.

application for renewal of, 22, 23.

The figures refer to pages.

LEASE — Continued.

- proceeds of land leased may be loaned, 26.
- interest in property leased from Board disqualifies Director, 29.
- lease of property of Board, Director interested in, void, 29.
- list of land leased to be returned to President of Board of Assessors, 43.
- return *prima facie* evidence of facts stated therein, 43.
- form of return, 43.

LEGISLATURE. See GENERAL ASSEMBLY.

LIABILITY. See DIRECTORS; SCHOOL BOARDS; SECRETARY'S BOND.

- of sureties construed strictly, 21.
- of custodian of school funds, 38.

LIBRARY.

- Board may maintain Library and reading room, 44, 50.
- may establish branches, 44, 50.
- charter of Public School Library Society, 44.
- names of incorporators and incorporation, 44.
- objects of society, 44.
- qualifications of life members, 44.
- privilege of life members, 45.
- composition of Board of Trustees, 45.
- President of Board, duties of, 45.
- registry to be opened, 45.
- power of Board of Trustees, 45, 46.
- St. Louis School Board may appropriate funds to maintain, 46.
- property of society exempt from taxation, 46.
- corporation unlimited by what, 46.
- agreement with the Washington University, 46.
- agreement with Public School Library Society, 47.
- Board may change name of Library, 50.
- fees for life membership in, cannot be increased, 50.
- fees and dues exclusively in control of School Board, 50.
- Board may increase non-resident fees and dues, 50.
- no assessment can be made on life members, 50.
- under contract with Washington University Board to expend some part of \$6,000 on Library annually, 50.
- under contract with Public School Library Society Board must expend annually \$3,000 on Library, 51.

LICENSE.

- dog license not a city tax, 10.
- manufacturers', 101,
- merchants', 102.
- merchants' and manufacturers', 116.

The figures refer to pages.

LIEN. *See* MECHANICS' LIEN.

taxes become a, 136.

all railroad taxes become a prior lien, 164, 165

LIFE MEMBERS. *See* LIBRARY.

LIMITATIONS, STATUTE OF.

for possession of realty, 31.

title emanating from government does not take case out of statute, 231.

LIMIT OF SCHOOL INDEBTEDNESS.

constitutional provision applies to St. Louis schools, 184.

amount of, not to exceed yearly income, 186.

may be increased, how, 186.

fund to pay interest, etc., 186, 187.

increase not to exceed five per cent, 186.

LIMIT OF SCHOOL TAXES. *See* SCHOOL TAXES.

LIMITS. *See* CITY CHARTER, EFFECT OF; CITY LIMITS.

LIQUORS.

disposing of, to pupils, 128.

giving money for, in electioneering, 132.

LIST OF CHILDREN. *See* ENUMERATION.

LIST OF LEASED LANDS.

to be returned to President of Board of Assessors by Secretary, 43.

LIST OF TAXPAYERS. *See* ENUMERATION.

LITERARY PURPOSES.

use of school house for, 17.

LITIGATION.

with Commissioners of Section Sixteen, 58, 59.

LOAN OF SCHOOL FUNDS.

interest on, cannot be reduced, 6.

Board may lend proceeds of sale or lease of land, 26.

security may be either real or personal, or both, 26.

Board may lend, at interest not exceeding ten per cent, 26.

not exceeding one year, 26.

additional security demanded, when, 27.

Director not to borrow from Board, 28.

proceeds of sale of Section Sixteen to be loaned, 30, 31.

proceeds of sale, Tp. 45, R. 6, to be loaned, 33.

security unincumbered realty of double value, 137.

real and personal security, 137, 192.

County School Fund to be loaned, 137.

interest to be from six to ten per cent, 137.

second mortgage given to secure county not void, 193.

county court may release mortgage and take new one as security, 193.

any bond good at common-law, sufficient, 193.

failure to take mortgage does not discharge surety, 193.

The figures refer to pages.

LOCAL LAWS. *See* SPECIAL AND LOCAL LAWS.

LOCALITY OF LANDS.

depositions touching, 22.

LOCO PARENTIS.

teacher stands in, 19.

LOOSE CONVERSATIONS. *See* CONTRACT.

LOT. *See* BY LOT.

meaning of, 144.

MAJORITY OF BOARD.

constitutes quorum, 20.

MAJORITY OF ST. LOUIS BOARD OF EQUALIZATION.

a quorum, 211.

MAJORITY OF TAX-PAYERS. *See* INCREASE OF SCHOOL TAXES.

voting, shall increase tax for school purposes, 120, 184, 185.

MAJORITY OF VOTES OR VOTERS.

candidate must receive, or plurality, 14.

to increase taxes for school purposes, 120, 184, 185.

shall control use of school house, 139.

MALE CITIZENS.

qualified as voters, 11.

MALES, FREE WHITE. *See* FREE WHITE MALES.

members of corporation shall be, 5.

President and Directors shall be, 8.

voters shall be, 11.

MALICE.

director liable for, 8.

MANAGEMENT OF SCHOOLS.

Board to make rules for, 13.

MANDAMUS.

lies to compel assessment of school taxes, 186

MANNER, TIME AND PLACE.

Board to prescribe of elections, 11, 12, 20, 63, 206.

MANUFACTURERS' TAX. *See* MERCHANTS' AND MANUFACTURERS' TAX.

amount of tax, 101, 102.

manufacturer defined, 102.

MATERIAL MEN.

Board may enforce bond to secure, 15.

MAY.

means "must" in constitution, 54, 189.

MAYOR.

not eligible as School Director. 11.

Commissioners to Re-establish Ward Limits to file report with, 68.

shall perform duties of county court, 129.

The figures refer to pages.

MEANING OF CERTAIN TERMS. *See* DEFINITIONS.

MECHANICS' LIENS.

public school houses not subject to, 16, 23.

MEETINGS OF THE BOARD.

absentees may be compelled to attend, 12.

disorderly conduct at, may be punished, 12.

time and place of stated meetings, 20.

President may call special meeting, 20.

three members may call, 20

notice of, to be given members, 20.

notice in writing, to be given, 20.

MERCHANTS' AND MANUFACTURERS' TAX.

has not been collected for schools in St. Louis, 35.

Ways and Means Committee to enforce collection, 35.

suit against collector to compel collection of tax decided against Board, 35.

Legislative Committee to present the matter to the Legislature, 35.

Legislature memorialized, 35.

amendment suggested to Legislature did not pass, 35.

Committee appointed to consider matter, 35.

power to tax merchants, 35.

manufacturers to be taxed, 101.

tax not to be greater than against merchant, 101.

manufacturers shall file sworn statement, 101.

manufacturer defined, 102.

merchant defined, 102.

penalty for dealing without license, 102.

merchants shall pay an *ad valorem* tax, 103.

bond to be given, 103.

statement to be filed, when, 103.

what shall constitute a separate class, 115.

lower rate than on real estate authorized, 115.

regulation of merchants' and manufacturers' license, 116.

on increase of school taxes by election, assessment to be made on merchants' statements, 120, 121.

school taxes to be assessed on merchants' statements, 167.

MILITARY DUTY.

exemption from, paid, part of County School Fund, 191.

MINUTES. *See* RECORD OF PROCEEDINGS.

MISDEMEANOR.

Director violating certain acts, 28.

officers of Board violating certain acts, 28.

discharge of fire-arms, 75.

injury to school lands, 79.

The figures refer to pages.

MISDEMEANOR — Continued.

- injury to school-houses, 79, 122.
- in office, punishment for, 86.
- collection of illegal taxes, 86.
- disturbing school, 89.
- public safety act, violation of, 105.
- failure of public officers to perform duties, 123.
- disposing of liquor to pupils, 128.
- employment of electioneers, 132.
- voter accepting consideration, 132.
- accepting money for electioneering purposes, 132.
- officers exacting fees or rewards, 138.
- contagious diseases act, violation of, 176.
- building ordinance amended, violation of, 226.

MISSOURI, STATE OF. *See* BONDS.

- Convention Ordinance, 195.
- act authorizing formation of, 232.

MONEY. *See* APPLICATION OF PURCHASE MONEY.

- Directors shall not borrow from Board, 28.
- meaning of, 146.

MONEY, STOCKS, BONDS, LANDS AND OTHER PROPERTY.

- form part of Public School Fund, 124.
- form part of County School Fund, 191.

MONTH. *See* SCHOOL MONTH.

- meaning of, 156.

MORAL QUALITIES.

- teacher may be dismissed without questioning, 18.

MOVING FROM WARD.

- vacates Director's seat, 28.

MUNICIPAL ASSEMBLY. *See* COUNCIL OF CITY OF ST. LOUIS.

- correction of ward limits by, 202.
- duties of county court to be performed by, 129.
- shall annually fix percentage of taxes, 212.

MUNICIPAL CORPORATION.

- St. Louis School Board is not a, 6.
- lands or lots belonging to, exempt from taxation, 106.
- shall not aid school for religious or sectarian purposes, 194.

MUNICIPAL PROPERTY.

- exempt from taxation, 106.

M'NAIR, ALEXANDER.

- corporator of board for superintending schools, 24.

NAME.

- of Board, 5.

The figures refer to pages.

NAME — Continued.

- of illegal voters to be given in notice of contest, 13.
- of Henry Ames to be associated with Library, 46, 47.
- of Library may be changed, 50.
- procuring to be illegally placed on registration list, 65.
- registering under assumed, 65.
- voting under assumed, 65.

NAVY.

- serving in, disqualifies voter, 65.

NEEDFUL RULES.

- board may make, 17, 172.
- may be enforced at school, 17.
- teacher may make, 18.

NEGLIGENCE.

- directors liable for, 8.
- Board liable for gross, 19.

NEW LIMITS.

- intersection of districts by, 197, 198.
- excess of taxes refunded, 201, 217.

NEW MADRID CLAIM.

- location of, on Sixteenth Section void, 235.

NEW WARDS.

- members from, shall be classed as from old, 20.

NON-RESIDENT MEMBERS.

- of Library, fees may be increased, 50.

NON-RESIDENT PUPILS.

- not allowed to attend St. Louis Public schools, 7.
- admission of, 173.

NORMAL INSTRUCTION.

- for colored children, 53.

NOTICE. *See* JUDICIAL NOTICE.

- of contested elections, 13.
- members of corporation presumed to have, of rules, 13.
- teachers presumed to have, of rules, 18.
- of special meetings, 20.
- of sale of school lands, 16th Section, how given, 92.
- of election to increase school taxes, 122, 185.
- of completion of assessment, 209.

NUMBER OF DIRECTORS. *See* BOARD, ETC., OF ST. LOUIS PUBLIC SCHOOLS.

OATH.

- "candidates," repealed, 10.
- "test-oath," Directors not required to take, 10.

The figures refer to pages.

OATH — Continued.

- judges and clerk of school election must take, 12.
- must be returned with poll books, 12.
- dedimus* need not be supported by, 22.
- members must take before judge or justice, 23.
- Secretary and Treasurer to take, before judge or justice, 23.
- Commissioners to Re-establish Ward Limits to take, 67.
- meaning of, 146.
- officers of election must take, 179.
- St. Louis Board of Equalization shall take, 211.

OBJECT OF CORPORATION.

- Board may do all lawful acts to effectuate, 13.
- charter may be repealed, 23.

OBLIGATIONS AND COMPENSATION.

- of Treasurer and Secretary, Board shall prescribe, 21.
- of servants and agents, Board shall prescribe, 21.

OCCUPANCY. *See* APPROPRIATION OF UNITED STATES' LANDS.

O'FALLON POLYTECHNIC INSTITUTE.

- agreement respecting, 46.

OFFENCE.

- member shall not be expelled a second time for same, 12.

OFFICE.

- person holding city, ineligible to Board, 27.
- collector not giving bond, vacates, 37, 213.
- bidding for, 84.
- selling, 84.
- buying, 85.
- construction of preceding sections, 85.
- grant of, void, when, 85.
- oppression in, 85.
- fraud in, 85.
- conviction, effect of, 85.
- punishment of misdemeanor in office, 86.
- usurping office, 86.
- to be held until successors qualified, 91.
- candidates convicted under electioneering act, 132.

OFFICERS. *See* CITY OFFICERS.

- embezzlement by public, 76.
- loaning public money, 76.
- receiving benefits from deposits, 76.
- punishment for, 77.
- claims corruptly allowed, 77.
- fraudulent disbursement of public funds by, 78.
- bribery of public officer, punishment, 80.

The figures refer to pages.

OFFICERS — Continued.

- public officer accepting bribes, punishment, 80.
- bribing officer to appoint to office, 81.
- accepting bribe to make appointments, 82.
- accepting office procured by bribery, 82.
- attempting to bribe public officer, 82.
- bribery to procure office, 83.
- accepting bribe to procure office, 83.
- oppression in office, 85.
- fraud in office, 85.
- conviction, effect of, 85.
- punishment of misdemeanor in office, 86.
- shall hold until successors qualified, 91.
- failure of certain officers to perform duties, a misdemeanor, 123.
- duties of, in St. Louis, 113, 129, 130.
- exacting illegal fees, 138.

OFFICERS OF BOARD.

- obligations and compensation of Treasurer and Secretary, 21.
- obligations and compensation of servants and agents, 21.
- disqualified if violating certain acts, 28.
- guilty of a misdemeanor if violating certain acts, 28.
- shall not be interested in sale or lease of Board property; 29.

OFFICERS OF COUNTY.

- duties of, to be performed by city officers, 129, 130.

OFFICERS OF ELECTION.

- to be sworn, 179.

OFFICIAL ACTS.

- of Board, how proven, 8, 23, 24.

OFFICIAL CHARACTER.

- of school trustees, how proven, 24.

OMITTED TAXES. *See* RAILROADS, TAXATION OF.

ONE HUNDRED YARDS. *See* ASSIGNATION AND BAWDY HOUSES.

ONE HUNDRED QUALIFIED ELECTORS.

- on demand of, record to be laid before general meeting, 21.

OPPRESSIVE CONDUCT.

- director liable for, 8.

ORDINANCE.

- Board may make, for government of schools, 13.
- of Board, how proven, 23, 24.
- Convention Ordinance, 195.
- accepting United States' grant of land, 196.
- city ordinances, 218.

ORIGIN OF SCHOOL FUND.

- act authorizing formation of State, 232, 233.

The figures refer to pages.

ORPHAN CHILDREN.

may attend school in any district without paying tuition, 173.

OUT LOTS. *See* APPROPRIATION OF UNITED STATES' LANDS.

OWNER, UNKNOWN. *See* JUDICIAL SALES.

PARK COMMISSIONER, LAFAYETTE.

ineligible as School Director, 27.

PAYMENT OF A CITY TAX. *See* CITY TAX.

PENALTY. *See* FELONY; MISDEMEANOR.

PENAL LAWS. *See* CONSTRUCTION OF PENAL LAWS.

PENALTIES AND FORFEITURES. *See* FINES; PENALTIES AND FORFEITURES.

PENSIONS.

allowance by Board illegal, 19.

PERJURY.

conviction of, disqualifies voter, 65, 204.

PERMANENT FUND. *See* SECTION SIXTEEN.

established, 59.

income of lands in, only to be used, 59, 60.

effect of act, 60.

lands in, may be disposed of and proceeds invested, 60.

before scheme and charter, lands in, might be used, 60.

proceeds of, must be placed in income-bearing investment, 61.

motion to memorialize Legislature respecting, 60.

memorial to Board respecting, 61.

remonstrance respecting, 61.

classification of lands, 61.

special tax bills may be paid out of, 61.

Board may use its discretion in investing, 61.

surplus from judicial sales, 140.

proceeds of government school lands a permanent fund, 233.

policy of the law respecting, 233, 234.

PERSON.

meaning of, 146.

PERSONAL PROPERTY.

meaning of, 157.

PERSONAL SECURITY. *See* LOAN OF SCHOOL FUNDS.

PHYSIOLOGY AND HYGIENE.

qualifications required of teachers to obtain certificate, 175.

instruction in physiology and hygiene to be given when patron demands it in writing, 175.

such instruction to be given only to children of patrons demanding it, 175.

teacher not authorized to teach who has not passed an examination in physiology and hygiene, 175.

The figures refer to pages.

PLACE OF SCHOOL ELECTIONS.

time, place and manner, Board to prescribe, 11, 12, 20.

PLURALITY.

candidate-elect must receive, or majority, 14.

POLLS. *See* ELECTIONS.

POLICY OF THE LAW.

respecting government school lands, 233, 234.

POLYTECHNIC, O'FALLON INSTITUTE.

agreement respecting, 46.

POLYTECHNIC INSTRUCTION.

agreement respecting, 46.

\$6,000 to be applied annually, 47, 50.

POSSESSION. *See* APPROPRIATION OF UNITED STATES' LANDS.

PRATTE, BERNARD.

corporator of board for superintending schools, 24.

PRECINCTS. *See* ELECTION OF DIRECTORS.

Board may establish or combine, 11, 12, 63.

registering in other than residence precinct, 65.

registering in more than one, 65,

voting in other than residence precinct, 65.

voter must reside in, where voting, 204.

PREFERRED DEBT.

constitutionality of law, 184.

PREMISES.

meaning of, 157.

PRESIDENT OF BOARD OF ASSESSORS. *See* ST. LOUIS BOARD OF ASSESSORS.

list of school lands leased, to be returned to, 43.

bond of, 207.

qualifications of, 207.

duties of, 208, 209.

PRESIDENT OF SCHOOL BOARD.

powers of corporation shall be vested in, and Directors, 8.

shall be free white male, 8.

twenty-one years of age, 8.

resided in city twelve months, 8.

citizen of United States, 8.

paid a city tax, 8.

Board shall elect one of its own members, 12.

in case of vacancy in office, 13.

cannot be elected at meeting held "pursuant adjournment," 13.

may call special meetings, 20.

service of process on, 23.

shall enforce eighth section of School Board charter, 28.

The figures refer to pages.

PRESIDENT OF SCHOOL BOARD — Continued.

if President require it in writing, collector shall pay Board taxes collected oftener than monthly, 36.

shall suspend member interested in contracts with Board, 42.

if member expelled, President to call special election, 42.

PRIMARY DISPOSAL OF SOIL.

General Assembly shall not interfere with, 194, 233.

PROBATION.

teachers may be appointed on, 18.

PROCEDURE. See PROCESS.

appearance to suit, 9.

quo warranto to determine right to directorship, 12.

notice of application to renew lease, 21, 22.

copies of writs, etc., may be delivered to President or to two members, 23.

injunction to restrain void tax, 185, 186.

injunction to prevent tax does not lie in name of State, 186.

injunction will lie to prevent sale of school land for taxes, 186.

tax payer may resist enforcement of illegal tax, 186.

mandamus lies to compel assessment of school taxes, 186.

PROCEEDINGS.

Board may make rules governing their own, 13.

record of, 21.

PROCESS. See PROCEDURE.

service of, 23.

PROFANE LANGUAGE.

rule prohibiting, reasonable, 18.

PROOF OF CORPORATE ACTS.

need not be by record, 9.

how made, 23.

method not limited to that prescribed in charter, 24.

PROOF OF OFFICIAL CHARACTER.

how made, 24.

PROPERTY OF PUPILS.

liability of Board for loss of, 19.

PROSECUTOR.

unnecessary in indictment for trespass, 79.

PROSTITUTION. See ASSIGNATION AND BAWDY HOUSES.

PUBLIC ACT. See JUDICIAL NOTICE.

charter of School Board, 23.

PUBLIC BUILDINGS.

how taxes for, on railroads to be levied, 160.

PUBLIC BUILDINGS IN SCHOOL DISTRICTS.

taxes for, increased by two-thirds vote at election, 121, 184, 185.

The figures refer to pages.

PUBLIC CORPORATION.

Board of Public Schools a, 7.

PUBLIC FUNDS.

embezzlement of, 76.

loaning, 76.

receiving benefits from deposits, 76.

punishment for, 77.

fraudulent disbursement of, 78.

speculation in, a felony, 187.

PUBLIC LANDS.

proceeds of, form part of Public School Fund, 124, 190.

PUBLIC LIBRARY AND READING ROOM. *See* LIBRARY.

Board may maintain, 44, 50.

PUBLIC LIBRARY. *See* LIBRARY.

name may be changed, 50.

PUBLIC OFFICERS.

embezzlement by, 76.

loaning public money, 76.

receiving benefits from deposits, 76.

punishment for, 77.

claims corruptly allowed by, 77.

fraudulent disbursement of public funds, 78.

bribery of, punishment, 80.

accepting bribes, punishment, 80.

bribing officer to appoint to office, 81.

accepting bribe to make appointments, 82.

accepting office procured by bribery, 82.

attempting to bribe, 82.

bribery to procure office, 83.

accepting bribe to procure office, 83.

oppression in office, 85.

fraud in office, 85.

conviction, effect of, 85.

punishment of misdemeanor in office, 86.

shall hold until successors qualified, 91.

failure to perform duty a misdemeanor, 123.

extacting illegal fees, 138.

speculation in public funds by, a felony, 187.

PUBLIC PURPOSES.

use of school house for, 17, 139.

PUBLIC SAFETY.

School Houses.

doors to open inward and outward, 104, 105.

penalty for violation of act, 105.

The figures refer to pages.

PUBLIC SAFETY—Continued.

- aisles of school room should be capacious, 221.
- fire proof shutters above first floor, 221.
- fire proof shutters may be inside, 221.
- fire proof shutters to be opened from outside, 221.
- fire proof shutters to be closed at night, 221.
- aisles of school room to be free from obstructions, 221, 224.
- fire escapes to be provided, 222, 224.
- penalty for violation of ordinance, 222, 226.
- width of aisles, 223.
- contiguity of seats, 223.
- halls, doors, stairways, etc., shall facilitate egress, 224, 225.
- passage ways should be capacious, 224, 225.
- sufficient hall ways, 224, 225.
- violation of ordinance a misdemeanor, 226.

PUBLIC SCHOOL FUND. *See* COUNTY SCHOOL FUND; SCHOOL FUND; STATE SCHOOL FUND; TOWNSHIP SCHOOL FUND.

Sources derived from.

- proceeds of lands granted by United States, 124, 190.
- money, stocks, bonds, lands, or other property now belonging to any fund for purposes of education, 124, 190.
- net proceeds of State tobacco warehouse, 124.
- net proceeds of escheated lands or other property, 124, 190.
- net proceeds of sales of estrays, 124.
- unclaimed dividends and shares from estates, 124, 190.
- finer, penalties and forfeitures, 124.
- proceeds, sales of public lands, if Congress will consent, 124, 190.
- grants, gifts, and devises, 124, 190.

Income, how invested.

- under direction of State Board of Education, 124.
- in United States or State bonds, 124, 125, 192.
- no part shall be invested in bonds of other State, city, town or corporation, 192.

Income, how applied.

- income and twenty-five per cent of the State revenue to be applied annually to the support of schools, 125.
- account of Public School Fund to be kept by State Auditor, 125.
- State Auditor shall quarterly certify copy of account, 125.
- annual income and so much of the revenue that may be set apart, shall go to support of schools, 190.
- origin of School Fund, 233.

Capital of fund.

- State Auditor to report respecting, to State Board of Education, 125.
- State Board shall invest in United States or State bonds, 125.

The figures refer to pages.

PUBLIC SCHOOL FUND — Continued.

income of fund apportioned, payable annually to counties on warrant of State Auditor, 125.

portion due city of St. Louis to be paid to the School Board on return of enumeration, 125, 126.

apportionment of, 154.

to be securely invested and sacredly preserved, 190.

deficiency in, General Assembly to provide for, 190.

policy of the law respecting preservation, 191.

PUBLIC SCHOOL HOUSES. *See* PUBLIC SAFETY.

Board has power to build, 15.

Board may contract to erect, 15.

not subject to execution, 16.

not subject to mechanics' liens, 16.

use of, for Sunday schools, 17.

burning school house, 75.

injury to, 79, 122.

condemnation of land for, 119.

use for religious, literary or other public purposes, 139.

laws regulating the building or repairing of school houses and raising money therefor not to be local or special, 178.

PUBLIC SCHOOL LANDS. *See* LANDS; SCHOOL LANDS.

PUBLIC SCHOOL LIBRARY. *See* LIBRARY.

PUBLIC SCHOOL LIBRARY SOCIETY. *See* LIBRARY.

PUBLIC SCHOOL PROPERTY. *See* LIBRARY.

Board to have charge and control of, 13.

Board to make rules for management of, 13.

extension of city limits, vests in Board, 15, 16, 41, 198, 199.

not subject to execution, 16.

not subject to mechanics' liens, 16.

injury to, 79, 122.

subject to taxes when, 136.

board to have care and keeping of, 139.

exempt from taxation, 182.

subject to special taxes, 182.

PUBLIC SCHOOLS.

disturbing, a misdemeanor, 89.

laws regulating management of, shall not be local or special, 178.

laws for raising money for management of, shall not be local or special, 178.

means "common schools," 188.

General Assembly shall establish and maintain, 188.

PUBLIC SQUARES.

exempt from taxation, 106.

The figures refer to pages.

PUBLIC USE. *See* CONDEMNATION OF LANDS FOR PUBLIC USE;
EMINENT DOMAIN.

- property taken for, compensation must be first made, 177.
- how compensation ascertained, 177.
- appropriation for public school site, is for a, 178.

PUNISHMENT OF MEMBERS.

- Board may inflict, 12.
- Board may expel on two-thirds vote, 12.
- cannot expel a second time for same offence, 12.

PUPIL.

- attending social party, 17.
- absence of, rule reasonable, 17.
- may be punished by corporal punishment, 18.
- loss of clothing at school, 19.
- disposing of liquor to, 128.

PUPILS OF ST. LOUIS PUBLIC SCHOOLS.

- Board liable for loss of pupil's clothing when, 19.

PURCHASE MONEY. *See* APPLICATION OF PURCHASE MONEY.
PURPOSES.

- other purposes construed, 165, 166.

PURSUANT TO ADJOURNMENT.

- election of President at meeting held, void, 13.

QUARRELLING.

- rule respecting, reasonable, 18.

QUASI CORPORATION.

- School Board is not, 6.

QUORUM.

- majority of Board of St. Louis Public Schools, 20.
- smaller number may compel attendance of absentees, 20.
- smaller number may adjourn from day to day, 20.
- of State Board of Equalization, 148.
- of St. Louis Board of Equalization, 211.

QUO WARRANTO.

- will lie to determine right to directorship, 12.

RAILROADS, TAXATION OF.

- districts having railroad property only, can tax, 106, 181.
- tax book to be delivered to collector, 112.
- when collector shall make seizure for taxes, 112.
- levy of, how made, 113.
- officers in St. Louis, duty of, 113.
- county includes St. Louis, 113.
- taxes, when due, 147.

The figures refer to pages.

RAILROADS, TAXATION OF — Continued.

- rate of taxation, 159.
- omission of court to levy, 159, 160.
- taxes illegally levied, 159, 160.
- taxes erroneously levied, 159, 160.
- taxes shall not exceed constitutional limit, 160.
- shall become due, delinquent, subject to penalty as other railroad taxes, 160.
- upon what basis the rate of taxation shall be levied, 160.
- how railroad school taxes are to be distributed, 162, 167, 181.
- county clerk shall extend taxes on tax-book, 163.
- form of railroad tax-book, 163.
- county clerk to certify to chief officer of railroad statement of taxes, 164.
- what the certificate shall contain, 164.
- taxes when levied become a prior lien in favor of State, 164, 165.
- all railroad property subject to taxation, 164, 180, 181.
- penalty for delinquent taxes, 165.
- when railroad taxes unpaid become delinquent, 165.
- "and for other purposes," construed, 165, 166.
- section 6880 Revised Statutes 1879, does not violate either State or Federal constitutions, 166.
- act providing for distribution of railroad taxes is constitutional, 166, 167.
- under section 6880 Revised Statutes 1879 taxes on railroads could only be levied for "school purposes," 167, 181.
- building houses, railroads not taxed for under old law, 181.
- constitutionality of act, 181.
- distribution of taxes, 181.

RAISING MONEY.

- for building school houses, shall not be by local or special laws, 178.
- for repairing school houses, shall not be by local or special laws, 178.
- for management of public schools, shall not be by local or special laws, 178.

RATE OF SCHOOL TAXES.

- School Board shall determine, 36, 216.
- resolution of the Board, 36, 216.
- how ascertained, 183, 184.

RATIFICATION.

- act of director must be authorized or ratified, 8, 9.
- use of supplies purchased without authority not a, 9.

READING ROOM.

- Board may maintain, 44.

The figures refer to pages.

REAL ESTATE. *See* JUDICIAL SALES.

meaning of, 157.

REAL PROPERTY.

meaning of, 157.

REASONABLE TIME.

Directors may qualify in, during term, 27.

RECORDER. *See* APPROPRIATION OF UNITED STATES' LANDS.

RECORDER OF DEEDS.

duties respecting assessment, 209.

RECORDER OF VOTERS.

to assist Commission to Re-establish Ward Limits, 68.

duty of, 204.

RECORD OF PROCEEDINGS.

official acts need not be proved by record, 9.

Board shall cause to be kept, 21.

Board shall lay before General Assembly when required, 21.

Board shall lay before general meeting of inhabitants when,
21.

Board may call meeting of inhabitants to lay before, 21.

REGISTER. *See* CITY REGISTER.

RE-ESTABLISH WARD LIMITS. *See* COMMISSION TO RE-ESTABLISH
WARD LIMITS.

REGISTER OF ATTENDANCE.

teachers shall keep, 123.

to be open to inspection of public, 123.

REGISTRATION OF VOTERS.

in cities of one hundred thousand inhabitants, 64, 180.

illegal registration, punishment of, 65.

Legislature shall provide for, in certain cities, 180.

persons entitled to register, 204.

when they may register, 205.

duties of register, 204.

REGULATING SCHOOL DISTRICTS.

laws, shall not be local or special, 178.

RELIGIOUS ASSEMBLIES.

disturbing, 89.

RELIGIOUS PURPOSES.

use of school house for, 17, 138.

RELIGIOUS SCHOOLS.

not to be supported by public funds, 194.

RELIGIOUS WORSHIP.

property used for, exempt, 106.

REMOVAL FROM CITY.

vacancy in Board caused by, filled by election, 20.

The figures refer to pages.

REMOVAL OF TEACHERS.

- cause for, a question of fact, 8.
- may be removed before end of year, 18.
- may be removed for cause he cannot control, 18.

RENEWAL FUNDING BONDS.

- issue of, 116.
- description of, 116.
- exchange and sale of, 117.
- no commission allowed, 117.
- redeemed bonds to be destroyed, 118.
- tax levy for annual interest, 118.
- tax levy for sinking funds, 118.

RENEWING CHARTERS.

- shall not be by local or special law, 178.

RENEWAL OF LEASES.

- application for, 21, 22.
- declarations of deceased Secretary respecting, 22.

REPRESENTATIVE CAPACITY.

- election by persons in, *viva voce*, 180.

RESIDENCE. *See* DIRECTORS; VOTERS.

- all free white residents of city, members of School Board corporation, 5.
- in St. Louis, disqualifies as juror when Board a party to suit, 7.
- non-resident children, 7, 173.
- to qualify voter, 11, 179, 204.
- to qualify Director, 28, 40.
- meaning of, 157.

RESIGNATION.

- of President, Vice-president takes place, 13.
- of Director, vacancy to be filled by election, 20.
- of city officer, qualifies as Director, 27.

RESOLUTION OF BOARD.

- how proven, 23, 24.
- respecting tax, copy to be given county clerk, collector and register, 36, 216.
- Board may adopt previous enumeration by, 62.

RETURNS OF ELECTIONS. *See* ELECTIONS.

- fraud in casting up, 89.

RETURNS OF SCHOOL ELECTION. *See* ELECTION OF DIRECTORS.

- Board, judge of, 12.

REVENUE. *See* TAXES.

- of St. Louis Public Schools, act in relation to, 34.
- sources of, of St. Louis School Board, 191.

ROMAN NUMERALS.

- use of, 157.

The figures refer to pages.

RULES. *See* DEFINITIONS.

- all members of School Board incorporation presumed to have notice of, 13.
- Board may make, for management of schools and school property, 13.
- Board may make, for their own proceedings, 13.
- made by Board must be consistent with law of the land, 13.
- Rule 9 interpreted, 13.
- Rule 77 interpreted, 13.
- illegal rules void, 15.
- absence of pupil, reasonableness of rule, 17.
- court will not inquire into reasonableness of rules in certain cases, 17.
- must be a plain case for court to interfere, 17.
- court will not enforce illegal rule, 17.
- controlling pupil at home illegal, 17.
- needful, may be enforced, 17.
- teachers may make needful rules, 18.
- quarreling and profane language, rule as to, reasonable, 18.
- teachers presumed to have notice of, 18.
- teachers may be removed before end of year, reasonable, 18.
- vaccination, rule as to, proper, 18.
- school boards have power to make all needful rules, 172.
- when rules take effect, 173.
- copy of, to be transmitted to teachers, 173.

SACREDLY PRESERVED.

- capital of Public School Fund shall be, 190.
- capital of County School Fund shall be, 191.

SAFETY. *See* PUBLIC SAFETY.

SALE OF SCHOOL LANDS.

- interest in, disqualifies Director, 29.
- State cannot abrogate, 91, 235.
- not repugnant to grant, 234.
- not unconstitutional, 234.

SALES. *See* JUDICIAL SALES.

SAME OFFENCE.

- member cannot be expelled a second time for, 12.

SANITARY MEASURE.

- vaccination, 18.

SCHEME, EFFECT OF. *See* ADJUSTMENT UNDER SCHEME.

SCHOOL AGE.

- from six to twenty, 188.
- proposed change to from five to twenty, 188.
- constitution requires free instruction to persons of, 188, 189.
- constitution prohibits free instruction to persons not of, 188, 189.
- Board cannot instruct persons not of, for pay, 189.

The figures refer to pages.

SCHOOL BOARDS, SCHOOL DIRECTORS, SCHOOL TRUSTEES.

See BOARD, ETC., OF ST. LOUIS PUBLIC SCHOOLS; DIRECTORS; INCREASE OF SCHOOL TAXES.

board to call election for increase of school taxes, 120 121..

shall have care and keeping of school house, 138.

board shall provide apparatus, 138.

shall provide fuel, etc., 139.

shall cause an accurate account to be kept, etc., 139.

power to make all needful rules, 172.

when rules take effect, 173.

copy to be transmitted to teachers, 173.

power to suspend or expel pupil, 173.

may admit non-resident pupils, 173.

tuition fee of same, they shall fix, 173.

orphan children and apprentices not to pay a fee, 173.

Individual Directors.

liable for acts outside of scope of authority, 8.

liable for certain conduct, 8.

acts to be valid, must be authorized or ratified, 8.

liable for negligence, 8.

cannot alter a contract, 8.

not liable on note given for building school house, 8.

appearance to suit entered by member, binds board, 9.

appearance may be entered without formal consent of board, 9.

cannot purchase supplies, 9.

may employ attorney for Board, 9.

quo warranto will lie to establish right to office, 12.

proof of official character, 24.

SCHOOL BONDS. *See* BONDS.

SCHOOL BUILDINGS.

increase of tax to erect, 121.

SCHOOL DAY.

shall consist of six hours, 172.

SCHOOL DISTRICTS. *See* ADJUSTMENT UNDER SCHEME; RAILROADS, TAXATION OF.

city of St. Louis, a school district, 173.

laws regulating affairs of, not to be local or special, 178.

laws changing lines of, not to be local or special, 178.

laws prescribing duties of officers in, not to be local or special, 178.

laws creating officers in, not to be local or special, 178.

not maintaining school three months annually, not entitled to school fund, 188.

shall not aid schools for religious or sectarian purposes, 194.

intersected by city limits, 197, 198.

The figures refer to pages.

SCHOOL ELECTIONS. *See* ELECTIONS; ELECTION OF DIRECTORS.

SCHOOL FUNDS. *See* COUNTY SCHOOL FUND; PERMANENT FUND;

PUBLIC SCHOOL FUND; TOWNSHIP SCHOOL FUND.

liability of custodian of, 38.

application of, 54.

State Auditor to report to State Board of Education, money belonging to capital of Public School Funds, 54.

State Board of Education shall invest same in United States' or Missouri State bonds, 54.

income to be distributed for support of public schools shall be paid to counties immediately after apportionment, 55.

portion due St. Louis County in 1877 to be paid School Board, 55.

School Board and county court to apportion, 55.

in and after year 1877 State Superintendent to apportion to City of St. Louis its share, 55.

in and after year 1877 portion due city to be paid to Board, 55.

Board to return enumeration of children, 55.

State Auditor to draw warrant in favor of county treasurers, 55.

State Auditor to draw warrant in favor of St. Louis School Board, 55.

county courts shall collect and invest, 137.

rate of interest, 137.

security, real and personal, 137.

policy of the law as to preservation, 191.

Attorney reports all sources of school revenue to Board, 191.

SCHOOL HOUSES. *See* PUBLIC SCHOOL HOUSES.

SCHOOL INDEBTEDNESS.

amount not to exceed yearly income, 186.

may be increased how, 186.

increase not to exceed five per cent, 186.

fund to pay interest, etc., 187.

SCHOOL LANDS. *See* APPROPRIATION OF UNITED STATES' LANDS;

JUDICIAL SALES; PERMANENT FUND.

purchaser of, not relieved in equity on ground that sale was illegal, 6.

acts vesting, 22, 56.

depositions touching, 22.

Board to take possession of, 22.

Board shall dispose and apply, 22.

construction of acts relating to, 91.

injury to, 122.

taxable when, 106, 136.

SCHOOL MONTH.

shall consist of four weeks, 172.

SCHOOL PURPOSES.

increase of tax for, 120.

railroads taxed for, only, under old law, 181.

The figures refer to pages.

SCHOOL PROPERTY. *See* PUBLIC SCHOOL PROPERTY.

SCHOOL ROOM.

weapons in, penalty for, 169.

SCHOOLS. *See* PUBLIC SCHOOLS.

disturbing, a misdemeanor, 89.

SCHOOL TAXES. *See* INCREASE OF SCHOOL TAXES; INSURANCE COMPANIES; RAILROADS, TAXATION OF.

collected annually, 34.

to be paid School Board, 34.

school taxes to be collected in same manner as other taxes, 36.

collector to pay Board once a month, 36.

oftener if required in writing by the President, 36.

collector to collect, 36, 127.

rate to be fixed by Board, 36, 216.

how payment enforced, 39.

duty of county clerk, 39.

how assessed, 39, 184.

collector to collect delinquent school taxes, 127.

delinquent school taxes to be paid county treasurer, 128.

how to be levied on railroads, 160.

record to be kept by county clerk in "school tax book," 168.

form of school tax book, 168.

names and property of persons not residing in school district to be listed, 168.

all lands and lots in unorganized districts to be listed, 168.

tax levy to be made upon such property, 168.

increase of, 183, 184.

mandamus to compel assessment, 186.

excess in extended limits, 201, 216, 217.

Limit of.

county clerk shall assess all property, real personal and mixed, including merchants' statements, 167.

Levy not to exceed.

for *building purposes* in districts formed of cities, towns and villages, 168, 183.

in other districts, 168.

for *school purposes* in districts formed of cities, towns and villages, 168, 183.

in other districts, 168, 183.

for *sinking fund*, 168.

sufficient to pay *interest on bonded indebtedness*, 168.

limited by constitution, 183, 184.

SCHOOL TIME.

how divided, 172.

The figures refer to pages.

SCHOOL WEEK.

shall consist of five days, 172.

SCHOOL YEAR.

July 1st to June 30, following, 172.

SCOPE OF AUTHORITY.

directors liable for acts outside of, 8.

SECOND TIME.

director cannot be expelled for same offense a, 12.

SECRETARY. See BOARD, ETC., OF ST. LOUIS PUBLIC SCHOOLS; TREASURER AND SECRETARY.

Board shall appoint, 21.

shall prescribe duties, compensation, etc., 21.

bond of, 21.

liability of sureties for acts of Assistant, 21.

declarations of deceased, 22.

applications for renewal of leases may be served upon, 21, 23.

shall take oath before judge or justice, 23.

return of leases to President of Board of Assessors, by, 43.

SECRETARY OF STATE.

member of State Board of Equalization, 187.

member of State Board of Education, 188.

SECTION SIXTEEN. See COMMISSIONERS OF SECTION SIXTEEN.

act vesting in St. Louis School Board, 57.

State cannot abrogate sale of, 91, 235.

notice of sale, how given, 92.

price not to be less than one dollar and a quarter per acre, 92.

may be offered for sale once each year, 92.

shall be sold in forty acre lots, 92.

how divided, 92.

may be sold in less than forty acre lots when, 92.

not subject to location of New Madrid claim, 92, 235.

bond for purchase money to be given, 93.

certificate of purchase to be given, 93.

purchaser entitled to patent when, 93.

abstract of lands to be furnished register of lands, 93.

patent to issue on payment of purchase money, 93.

how patents signed and attested, 94.

purchaser may receive patent at time of sale, 94.

additional security may be required, 94.

if not given, contract violated, 94.

compensation of sheriff, 95.

compensation of clerk and treasurer, 95.

when court may sell on petition of less than fifteen inhabitants, 95.

majority may petition to lease, 95.

The figures refer to pages.

SECTION SIXTEEN — Continued.

- notice of such intended petition, 95.
- court may order leasing, when, 96.
- conditions and stipulations of leases, 96.
- how approved before taking effect, 96, 97.
- proceedings upon breach of, 97.
- rents to be paid into county treasury, 97.
- sales may be annulled, when and how, 97.
- purchase money to be refunded without interest, 98.
- selections in lieu of Sixteenth Section, when and how made, 98.
- governor may appoint person to make selection, when, 99.
- duty of person selected — report — pay, 99.
- governor to report selections to county, how, 99.
- sheriffs to sell such lands, how, 99.
- suits, by whom prosecuted, 100.
- sheriffs may bid in lands for townships, when, 100.
- certificates of purchase may be assigned, 100.
- patents may issue to assignees, when, 100.
- clerks of county courts to report selections of certain lands to register, when, 100, 101.
- distribution of fund when Section Sixteen has been sold, 126.
- sale of fractional part of, 133.
- acceptance of grant by Ordinance, 196.
- act of Congress granting, 232.
- survey unnecessary to vest title, 232.
- was granted as a permanent fund, 233.
- sixth section of act construed, 233.
- the origin of School Fund, 233.
- sale of, not repugnant to grant, 234.
- sale of, not unconstitutional, 234.
- vested in State for use of schools, 235.
- grant did not include common field lots, 236.
- land granted in lieu thereof, 236.
- after sale of lands in lieu of, State could not claim, 237.
- entry of lands in lieu, vested title, 237.
- Division of Proceeds in Tp. 45, R. 7.*
- one-fourth to be applied outside city, 51.
- to be managed by county court, 52.
- to be divided under act, Feb'y 28, 1874, 52.
- to be applied under act March 27, 1875, 52.
- what constitutes disposition of Sixteenth Section under act March 20, 1820, 92.
- when title of State to, is superior, 92.
- when townships estopped from claiming Sixteenth Section, 92.

The figures refer to pages.

SECTION SIXTEEN — Continued.

when government title passes, 92.

proceeds of Section Sixteen or lands in lieu, for a part of Township School Fund, 126.

SECTARIAN PURPOSES.

Schools for, shall not be supported by public funds, 194.

SELLING LIQUOR TO STUDENTS.

punishment for, 128.

SEPARATE SCHOOLS. *See* COLORED SCHOOLS.

school boards failing to maintain, county court may, 150.

separate free schools shall be established for children of African descent, 189.

Board must maintain, for colored children, 189.

Board cannot be forced to admit colored children into white schools, 189.

Board must maintain high school for colored pupils, 189.

SERVANTS AND AGENTS.

Board shall appoint necessary, 21.

Board shall prescribe duties, compensation, etc., 21.

SERVICE OF PROCESS. *See* PROCEDURE.

SETTING FIRE. *See* ARSON.

SHARES OF CAPITAL STOCK.

meaning of, 145.

SHUTTERS. *See* PUBLIC SAFETY.

SIGNATURE.

how made, 156.

SINKING FUND.

tax levy for, 118.

may be invested how and when, 118.

SHERIFF.

shall collect all fines, penalties and forfeitures, 110.

shall settle for, at each term of court, 110.

SIXTEENTH SECTION. *See* SECTION SIXTEEN.

SPECIAL AND LOCAL LAWS.

certain laws not to be, 178, 194.

city of St. Louis to be assessed by general laws, 206.

SPECIAL ELECTIONS.

not to take place within ninety days of general, 12.

may be called when, 40, 42, 153.

county court to call, 153.

county court to appoint judges of, 153.

returns to be certified to county court, 153.

county court to issue certificates, 153.

- The figures refer to pages.

SPECIAL MEETINGS.

of School Board, how called, 20.

SPECIAL TAXES.

School Board liable for, 182.

"exempt from taxes of every kind" does not include, 182.

may be paid out of Permanent Fund, 61.

PECULATION IN SCHOOL FUNDS.

a felony, 187.

STATE.

meaning of, 156.

STATE AUDITOR.

to report to State Board money belonging to capital of School Funds, 54, 125.

to draw warrant in favor of county treasurers, 55, 125.

to draw warrant in favor of the St. Louis School Board, 55, 125.

shall lay before State Board of Equalization abstracts, 107.

shall certify action of State Board to county clerks, 107.

shall keep account of Public School Fund, 125.

shall certify copy of account to State treasurer, 125.

amount of Public School Fund apportionment, to be certified to him, 154.

member of State Board of Equalization, 187.

STATE BOARD OF EDUCATION.

shall invest school funds in bonds, 54, 125.

shall sue for perversion of funds arising from school lands, 123.

shall have general supervision of educational interests, 123, 188.

to direct investment of school funds, 123.

to apply grants and devises, 123.

shall sue for perversion of State School Funds, 124.

shall consist of, 188.

STATE BOARD OF EQUALIZATION.

powers of, 106.

shall equalize valuations, how, 107.

compensation, biennial meetings, 107.

result to be certified to county clerk, 107.

shall meet when and where, 148.

quorum, oath, record of proceedings, 148, 149.

shall consist of, 187.

duties of, 187.

STATE BONDS.

Public School Fund may be invested in, 125, 192.

STATED MEETINGS. See BOARD, ETC., OF ST. LOUIS PUBLIC SCHOOLS.

The figures refer to pages.

STATE OF MISSOURI.

- lands and other property belonging to, exempt from taxation, 105.
- Convention Ordinance, 195.
- act authorizing formation of, 232.

STATE PROPERTY.

- exempt from taxation, 105.

STATE SUPERINTENDENT OF PUBLIC SCHOOLS.

- shall apportion to St. Louis its share of School Funds, 55, 125.
- abstract of returns shall be sent him, 127.
- shall apportion Public School Fund, 154.
- shall certify amount to State Auditor, 154.
- shall be President State Board of Education, 188.

STATE TOBACCO WAREHOUSE.

- proceeds of, part of Public School Fund, 124.

STATE TREASURER.

- copy of account of School Fund to be certified to, 125.
- member of State Board of Equalization, 187.

STATE UNIVERSITY.

- General Assembly shall aid and maintain, 189.
- government of, 190.

STATUTE OF LIMITATIONS.

- action for possession of realty, 31.
- applies to land granted by United States, 231.

STATUTES.

- Board may make, 13.
- how proven, 23, 24.
- rules for construction of, 156.

ST. LOUIS. *See* CITY OF ST. LOUIS.

ST. LOUIS BOARD OF ASSESSORS. *See* DISTRICT ASSESSORS;
ASSESSMENT.

- of whom it shall consist, 207.
- members shall give bond, 207.
- duty of district assessors, 207.
- assessment shall commence when, and end when, 207.
- they shall report to the President of the Board, 207.
- reports to be verified, 207.
- qualifications of assessors, 207, 208.
- the President of the Board shall superintend the work of district assessors, 208.
- shall have charge of office, maps, books, etc., 208.
- other duties of President, 208.
- he may appoint deputies, 208.
- he shall be at his office during business hours, 209.
- shall have assessment books made up, 209.

The figures refer to pages.

ST. LOUIS BOARD OF ASSESSORS — Continued.

form of assessment books, 209.

notice of completion of assessment books, how given, 209.

ST. LOUIS BOARD OF EQUALIZATION.

shall consist of, 210.

shall meet when, 210.

duty of, 210.

shall continue in session, how long, 210,

powers and duties of, 210, 211.

quorum of, 211.

compensation of, 211.

shall take oath, 211.

shall keep record, 211.

ST. LOUIS SCHOOL BOARD. *See* BOARD, ETC., OF ST. LOUIS PUBLIC SCHOOLS.

STOCKS.

meaning of, 145.

STODDARD SCHOOL.

loss of pupil's clothing in, 19.

SUB-CONTRACTOR.

Board may enforce bond to secure, 15.

SUBJECT AND OBJECTS OF TAXATION.

taxes for school purposes to be levied on all, 183.

SUCCESSORS.

Board members to hold until qualified, 20, 40.

public officers to hold office, until successors qualified, 91.

SUFFRAGE AND ELECTIONS. *See* ELECTIONS.

SUNDAY SCHOOLS.

Public School houses used for, 17, 139.

SUPERINTENDENT OF SCHOOLS. *See* STATE SUPERINTENDENT OF PUBLIC SCHOOLS.

SUPPLIES.

individual directors cannot purchase, 9.

use of, thus purchased not a ratification, 9.

Director interested in furnishing, to be suspended and expelled, 42

SUPPORT OF RELIGIOUS OR SECTARIAN SCHOOLS.

shall not be aided by public funds, 194.

SURETIES.

liability strictly construed, 21.

liability of, on Secretary's bond, 21.

when liable on Treasurer's bond, 37, 38.

of public officer, only responsible for performance of duty required by law, 37.

on auditor's bond, not liable, when, 37.

The figures refer to pages.

SURETIES — Continued.

failure to take mortgage to secure school loan does not release sureties, 193.

SURPLUS FUNDS FROM JUDICIAL SALES. *See* JUDICIAL SALES.

SUSPENSION OF PUPIL.

for absence, 17.

SWORN. *See* OATH.

SWORN OR CERTIFIED COPY.

proof of corporate acts of Board, 23.

TAXATION OF BOATS AND VESSELS.

where assessed, 113.

rate of taxation, 114.

how collected, 114.

wharfage, how collected, 114.

certificate of assessor to return, 114.

TAXATION OF CORPORATIONS. *See* RAILROADS, TAXATION OF.

corporations, how assessed, 108.

who to deliver lists of corporate stock, 108.

private bankers, etc., to make what returns, 109.

TAXES. *See* ASSESSMENT; EXEMPTION FROM TAXATION; INCREASE OF SCHOOL TAXES; JUDICIAL SALES; MERCHANTS' AND MANUFACTURERS' TAX; RAILROADS, TAXATION OF.

President and Directors shall have paid a city tax, 8, 10.

dog license not a tax, 10.

voters shall have paid a city tax, 11.

school tax in St. Louis to be levied on all property made taxable by law, 34.

St. Louis school tax to be paid Board, 34.

school taxes to be levied and collected annually in St. Louis, 34.

merchants' and manufacturers' tax, 35.

St. Louis school tax to be collected as other taxes, 36.

St. Louis school taxes to be paid Board monthly, 36.

oftener if required in writing by President, 36.

Board to determine rate of school taxes, 36, 216.

assessment for school taxes same as for other purposes, 39.

assessment enforced in same manner, 39.

manner of assessing and amount of school taxes, 39, 184.

special taxes may be paid out of Permanent Fund, 61.

collection of illegal, 86.

taxation of insurance companies, 91.

exemption from taxation, 105, 106, 152, 182.

when school lands taxable, 106, 136.

what taxes are to be assessed, levied and collected, 111.

The figures refer to pages.

TAXES — Continued.

- city collector to collect State taxes in St. Louis, 111.
- and to perform duties respecting collecting taxes which county collector did, 111.
- city council to perform duties respecting assessing and collecting revenue formerly done by county court, 111.
- increase for school purposes, 120.
- increase for school buildings, 121.
- collector shall collect school taxes, 127.
- collector shall collect delinquent taxes, 127, 128.
- delinquent taxes to be paid to county treasurer, 128.
- lien of, 136.
- in sales of real estate for, disposition of surplus, 139.
- railroads subject to school taxes, 164, 180, 181.
- special taxes, Board not exempt from, 182.
- rate in districts for school purposes, 183.
- for schools to be levied on all subjects of taxation, 183.
- rebate on tax bills, 214.
- excess in new city limits to be remitted, 217.

TEACHERS. See CORPORAL PUNISHMENT.

- incompetency of, a question of fact, 8.
- cause for removal a question of fact, 8.
- employment need not be proved by the record alone, 9.
- contract of employment need not be in writing, 9.
- notice of and consent to rules implied, 18.
- may be removed before end of year, 18.
- may be dismissed for causes they cannot control, 18.
- may make needful rules, 18.
- may be appointed on probation, 18.
- may be appointed in vacation, 18.
- may be removed without questioning capacity, 18.
- conduct towards pupil, 18.
- may inflict corporal punishment, 19.
- stand *in loco parentis*, 19.
- pensions cannot be legally allowed them, 19.
- St. Louis teachers not required to have State certificate, 66.
- shall keep register of attendance, 123.
- copy of rules to be transmitted to teachers, 173.
- exempt from jury service, 174.
- qualifications necessary to obtain State certificate, 175.
- not authorized to teach unless passed an examination in physiology and hygiene, 175.

TECHNICAL WORDS.

- how construed, 156.

The figures refer to pages.

TECHNOLOGICAL INSTRUCTION.

agreement respecting, 46.

TERM OF DIRECTORS.

three years, 19, 215.

TEST OATH.

Directors not required to take, 10.

THANKSGIVING DAY.

a holiday, 172.

THREE MONTHS DURING THE YEAR.

school must be maintained, to share funds, 155, 188.

TIME. *See* SCHOOL TIME.

of payment of city tax by director, 10.

time, place and manner of elections, 11, 12, 20.

how computed, 156.

TITLE. *See* APPROPRIATION OF UNITED STATES' LANDS.

to lands granted by Congress, deposition to be taken, 22.

to lands granted by Congress, vested in School Board, 22.

interest in, adverse to Board disqualifies Director, 29.

act of March 26, 1845, does not affect, 29.

treaty and legislation recognize titles to government school lands, 229

steps necessary to perfect title, 230.

section two, act of June 13, 1812, does not pass, 230.

title could be proved by parol, 231.

entry of land vested title, 237.

recorder's certificate only *prima facie* evidence of, 239.

TOWN.

meaning of, 157.

TOWNSHIP.

shall not aid schools for religious or sectarian purposes, 194.

Legislature shall not pass local or special laws:

regulating affairs of, 178.

erecting new, 178.

changing lines of, 178.

prescribing powers and duties of officers in, 178.

creating offices in, 178.

TOWNSHIP SCHOOL FUND.

county clerk to take measures to secure townships their portion of fund, 126.

distribution of funds when township lies in two counties, 126.

shall consist of

proceeds of Sixteenth Section or lands in lieu, 126,

interest of such proceeds, 126.

rents and profits of such lands, 126.

all school money apportioned to unorganized townships, 126.

The figures refer to pages.

TREASURER. *See* COUNTY TREASURER.

TREASURER AND SECRETARY. *See* SECRETARY.

Board shall appoint, 21.

Board shall prescribe duties, compensation, etc., 21.

to take oath before judge or justice, 23.

when sureties liable on treasurer's bond, 37.

procedure on bond, 38.

TRESPASS. *See* INJURY TO SCHOOL LANDS.

TWENTY-ONE YEARS.

President and Directors must be of age, 8.

voters must be of age, 11, 64.

TWO-THIRD VOTE.

Director may be expelled on, 12, 42.

increase of tax for school buildings, 121, 184, 185.

TWO HUNDRED YARDS.

immediate vicinity, 75.

UNDER LEGAL DISABILITY.

meaning of, 157.

UNITED STATES. *See* ARMY.

President and Directors must be citizens of, 8.

voter, a citizen of, 11.

buildings and furniture of, exempt from taxation, 105.

lands or lots granted by, for purposes of education, 106.

proceeds of lands granted by, to form part of Public School Fund, 124.

Public School Fund, capital and income may be invested in bonds of, 124, 125, 192.

meaning of, 156.

statute of limitations applies to lands granted by, 231.

UNIVERSITY, STATE.

General Assembly shall aid and maintain, 189.

government of, 190.

UNIVERSITY, WASHINGTON.

agreement with, 46.

USE. *See* PUBLIC USE.

USE OF PUBLIC SCHOOL HOUSE.

for Sunday-school, 17.

religious, literary or other public purposes, 17, 138.

USUAL ELECTION.

same as general election, 12.

USURPING OFFICE. *See* OFFICE.

The figures refer to pages.

VACANCY.

- not to be filled if within ninety days of general election, 12.
- in Presidency, Vice-president to perform duties, 13.
- in Schools Board, how filled, 20.
- caused by removing from ward to be filled speedily, 28.
- caused by change of ward boundaries, 40.
- special elections to fill, 40.
- President to call special election to fill, when, 42.

VACATES OFFICE.

- vacancy to be filled as if he had resigned, 37.
- failure of collector to give bond, 37, 213.
- change in ward boundaries vacates Directors' seats, 40.

VACATION.

- teacher may be re-appointed in, 18.

VACATION (IN).

- meaning of, 158.

VACCINATION.

- rule requiring, proper, 18.

VESTS.

- power of Board vested in President and Directors, 8.
- extension of city limits vests school property in Board, 15, 41.
- acts vesting land in St. Louis School Board, 22, 56.
- act vesting Sixteenth Section in School Board, 57.
- entry of land vested title, 237.

VIVA VOCE.

- elections in Board to be, 15, 180.
- elections by persons in representative capacity shall be, 180.

VICE-PRESIDENT.

- to perform duties of President in vacancy, 13.

VICINITY. *See* IMMEDIATE VICINITY.

VOID TAX.

- injunction will lie to restrain, 185, 186.

VOID.

- election of President at meeting held "pursuant to adjournment," 13.
- illegal rules, 15.
- lease from Board in which Director or officer is interested, 29.

VOTER, VOTES, VOTING. *See* BALLOTS; ELECTIONS; ELECTION OF DIRECTORS; REGISTRATION.

- School Board charter provisions obsolete, 11, 12, 206.
- city tax, must have paid, 11.
- free white male, 11.
- citizen of United States, 11, 64, 179, 203.
- resident of city, 11, 179, 204.
- age, over twenty-one years, 11, 64, 179, 204.

The figures refer to pages.

VOTER, VOTES, VOTING — Continued.

- city charter provisions respecting, govern school elections, 12.
- names of illegal, in notice of contest, 13.
- majority or plurality to elect, 14.
- in School Board to be *viva voce*, 15.
- city officers, voters for, qualified to vote for School Directors, 63.
- declaration of intention to become citizen, 64, 179, 203.
- resident of State one year, 64, 179, 204.
- resident of district, 64, 204.
- service in navy, disqualifies, 65.
- bet or wager, interest in, disqualifies, 65, 204.
- bribery, conviction of disqualifies, 65, 204.
- infamous crime, conviction of, disqualifies, 65, 204.
- perjury, conviction of, disqualifies, 65, 204.
- service in army disqualifies, 65, 204.
- accepting bribe, 83.
- offering to bribe, 84.
- illegal voting, 86.
- intimidating voters, 86.
- election frauds, 86.
- defrauding voters, 87.
- importing fraudulent, 87.
- fraudulent voting, 87.
- attempt to cast illegal vote, 87.
- majority of, may control use of school house, 139.
- persons convicted of certain crimes disqualified, 148.
- voter shall vote in residence-precinct, 203.
- registration of, 204.
- voter may be challenged, 205.

WAGER.

- interest in, disqualifies voter, 65, 204.

WANTON CONDUCT.

- director liable for, 8.

WARD. *See* COMMISSION TO RE-ESTABLISH WARD LIMITS.

- Board shall consist of two members from each ward, 11.
- members from new wards to be classed as from old, 20.
- Director moving from, vacates his seat, 28.
- Director must have resided in ward, time required, 28, 40.
- Director holds when boundaries changed, until successor qualifies, 40.
- when wards more than ten, 40.
- changing ward boundaries vacates directors' seats, 40.
- School Directors not to exceed number of wards, 63.

The figures refer to pages.

WARD — Continued.

when wards do not exceed twelve, then not more than double that number, 63.

laws regulating affairs of wards, not to be local or special, 178.

Re-establishing Ward Limits.

act relating to Commission, 66.

Commission not to be governed by old lines, 67.

should assembly fail, circuit court to appoint commission on petition of ten citizens, 67.

petition to be verified, 67.

petition to state that ward lines have not been changed for five years, 67.

petition to state that wards are not nearly equal, 67.

Commissioners to be sworn, 67.

shall receive a reasonable compensation, 67.

to file report within ninety days, 67.

municipal assembly to re-establish ward limits, 68, 202.

to be laid out so as to have similar number of voters, 202.

certain boundaries to remain unchanged, 202.

WASTE. *See* INJURY TO SCHOOL LANDS.

WASTED.

interest of schools shall not be wasted, 6.

WASHINGTON UNIVERSITY.

agreement with, 46.

WASHINGTON'S BIRTHDAY.

a holiday, 172.

WEAPONS.

in school room, 168.

penalty for, 169.

WEEK. *See* SCHOOL WEEK.

WHARFAGE. *See* TAXATION OF BOATS AND VESSELS.

WHITE MALES. *See* FREE WHITE MALES.

WILLFULNESS.

director liable for, 8.

WILL.

meaning of, 156.

WORSHIP.

property used for religious, exempt, 106.

WRITTEN, IN WRITING, WRITING WORD FOR WORD.

meaning of, 156.

YEAR. *See* SCHOOL YEAR.

meaning of, 156.

YEAR OF OUR LORD.

meaning of, 156.

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